

CORCEPT THERAPEUTICS INC
Form S-3
May 28, 2010
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As filed with the Securities and Exchange Commission on May 28, 2010

Registration No. 333-

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

FORM S-3
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

CORCEPT THERAPEUTICS INCORPORATED

(Exact Name of Registrant as Specified in Its Charter)

Delaware	149 Commonwealth Drive	77-0487658
	Menlo Park, CA 94025	
	(650) 327-3270	
<i>(State or other jurisdiction of incorporation or organization)</i>	<i>(Address of Principal Executive Offices including Zip Code)</i>	<i>(I.R.S. Employer Identification No.)</i>
	Joseph K. Belanoff, M.D.	
	Chief Executive Officer	

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Corcept Therapeutics Incorporated

149 Commonwealth Drive

Menlo Park, CA 94025

(650) 327-3270

(Name, address, including ZIP code, and telephone number, including area code, of agent for service)

Copies to:

Alan C. Mendelson

Latham & Watkins LLP

140 Scott Drive

Menlo Park, CA 94025

Telephone: (650) 328-4600

Facsimile: (650) 463-2600

Approximate date of commencement of proposed sale to the public: From time to time after the effective date of this registration statement.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box.

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box.

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 12b2 of the Exchange Act.

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Large accelerated filer

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

Accelerated filer

Smaller reporting company

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Title Of Each Class Of Securities To Be Registered	Amount to be Registered⁽¹⁾	Proposed Maximum Offering Price Per Share⁽²⁾	Proposed Maximum Aggregate Offering Price⁽²⁾	Amount Of Registration Fee
Common Stock, \$0.001 par value per share, issuable upon the exercise of warrants	4,286,395 shares	\$2.96	\$12,687,729	\$904.64

(1) Pursuant to Rule 416(a) of the Securities Act of 1933, as amended, this registration statement also covers such additional shares as may hereafter be offered or issued to prevent dilution resulting from stock splits, stock dividends, recapitalizations or certain other capital adjustments.

(2) Estimated solely for the purpose of calculating the registration fee in accordance with Rule 457(c) under the Securities Act. The price per share and aggregate offering price are based on the average of the high and low prices of the registrant's common stock on May 25, 2010, as reported on the Nasdaq Capital Market.

The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the registration statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.

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The information contained in this prospectus is not complete and may be changed. The selling stockholders named in this prospectus may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

Subject to Completion, Dated May 28, 2010

PROSPECTUS

4,286,395 Shares of Common Stock

This prospectus relates to the proposed resale or other disposition of up to 4,286,395 shares of Corcept Therapeutics Incorporated common stock, \$0.001 par value per share, by the selling stockholders identified in this prospectus. These shares represent shares of common stock issuable upon the exercise of warrants held by the selling stockholders. We are not selling any shares of common stock under this prospectus and will not receive any of the proceeds from the sale or other disposition of common stock by the selling stockholders. We will, however, receive the net proceeds of any warrants exercised for cash.

The selling stockholders or their pledgees, assignees or successors-in-interest may offer and sell or otherwise dispose of the shares of common stock described in this prospectus from time to time through public or private transactions at prevailing market prices, at prices related to prevailing market prices or at privately negotiated prices. The selling stockholders will bear all commissions and discounts, if any, attributable to the sales of shares. We will bear all other costs, expenses and fees in connection with the registration of the shares. See Plan of Distribution beginning on page 11 for more information about how the selling stockholders may sell or dispose of their shares of common stock.

Investing in our common stock involves risks. See Risk Factors beginning on page 3.

Our common stock is traded on the Nasdaq Capital Market under the symbol CORT . On May 27, 2010, the last reported sale price for our common stock on the Nasdaq Capital Market was \$3.09 per share.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.

The date of this prospectus is _____, 2010.

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ABOUT THIS PROSPECTUS

This prospectus is a part of a registration statement that we filed with the Securities and Exchange Commission utilizing a shelf registration process. Under this shelf registration process, certain selling stockholders may from time to time sell the shares of common stock described in this prospectus in one or more offerings.

We have not authorized anyone to give any information or to make any representation other than those contained or incorporated by reference in this prospectus. You must not rely upon any information or representation not contained or incorporated by reference in this prospectus. The selling stockholders are offering to sell, and seeking offers to buy, shares of our common stock only in jurisdictions where it is lawful to do so. This prospectus does not constitute an offer to sell or the solicitation of an offer to buy any shares other than the registered shares to which they relate, nor does this prospectus constitute an offer to sell or the solicitation of an offer to buy shares in any jurisdiction to any person to whom it is unlawful to make such offer or solicitation in such jurisdiction. You should not assume that the information contained in this prospectus is accurate on any date subsequent to the date set forth on the front of the document or that any information we have incorporated by reference is correct on any date subsequent to the date of the document incorporated by reference, even though this prospectus is delivered or shares are sold on a later date.

EXPLANATORY NOTE

The aggregate market value of voting and non-voting common equity held by non-affiliates of the registrant was approximately \$103.5 million as of May 27, 2010 based upon the closing price on the Nasdaq Capital Market reported for such date. This calculation does not reflect a determination that certain persons are affiliates of the registrant for any other purpose.

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ABOUT THE COMPANY

We are a pharmaceutical company engaged in the discovery and development of drugs for the treatment of severe metabolic and psychiatric disorders. Our focus is on those disorders that are associated with a steroid hormone called cortisol. Elevated levels and abnormal release patterns of cortisol have been implicated in a broad range of human disorders. Since our inception in May 1998, we have been developing our lead product, CORLUX, a potent glucocorticoid receptor II (GR-II), antagonist that blocks the activity of cortisol. We have also discovered three series of novel selective GR-II antagonists and have moved one of these compounds, CORT 108297, from one of these series into clinical development.

Cushing's Syndrome. Cushing's Syndrome is a disorder caused by prolonged exposure of the body's tissues to high levels of the hormone cortisol. Sometimes called hypercortisolism, it is relatively uncommon and most often affects adults aged 20 to 50. An estimated 10 to 15 of every one million people are newly diagnosed with this syndrome each year, resulting in approximately 3,000 new patients and an estimated prevalence of 20,000 patients with Cushing's Syndrome in the United States.

The Investigational New Drug application, or IND, for the evaluation of CORLUX for the treatment of Cushing's Syndrome was opened in September 2007. The U.S. Food and Drug Administration, or FDA, has indicated that our single 50-patient open-label study may provide a reasonable basis for the submission of a New Drug Application, or NDA, for this indication. On May 3, 2010, we announced that we had enrolled 45 of the planned 50 patients in our open-label Phase 3 trial of CORLUX in patients with Cushing's Syndrome and that the remaining patients are now being screened to enable completion of enrollment in the coming weeks. We expect to announce results of this study in the fourth quarter of this year and to submit our NDA for the use of CORLUX in Cushing's Syndrome by year-end 2010.

In July 2007, we received Orphan Drug Designation from the FDA for CORLUX for the treatment of endogenous Cushing's Syndrome. Orphan Drug Designation is a special status granted by the FDA to encourage the development of treatments for diseases or conditions that affect fewer than 200,000 patients in the United States. Drugs that receive Orphan Drug Designation obtain seven years of marketing exclusivity from the date of drug approval, as well as tax credits for clinical trial costs, marketing application filing fee waivers and assistance from the FDA in the drug development process.

Psychotic depression. We are developing CORLUX for the treatment of the psychotic features of psychotic major depression under an exclusive patent license from Stanford University. Psychotic major depression will hereafter be referred to as psychotic depression. The FDA has granted fast track status to evaluate the safety and efficacy of CORLUX for the treatment of the psychotic features of psychotic depression.

In March 2008, we began enrollment in Study 14, our ongoing Phase 3 trial in psychotic depression. The protocol for this trial incorporates what we have learned from our three previously completed Phase 3 trials. It attempts to address the established relationship between increased drug plasma levels and clinical response and to decrease the random variability observed in the results of the psychometric instruments used to measure efficacy. In one of the previously completed Phase 3 trials, Study 06, we prospectively tested and confirmed that patients whose plasma levels rose above a predetermined threshold statistically separated from both those patients whose plasma levels were below the threshold and those patients who received placebo; this threshold was established from data produced in earlier studies.

As expected, patients who took 1200 milligram, or mg, of CORLUX in Study 06 developed higher drug plasma levels than patients who received lower doses. Further, there was no discernable difference in the incidence of adverse events between patients who received placebo in Study 06 and those who received 300 mg, 600 mg or 1200 mg of CORLUX in that study. Based on this information, we are using a CORLUX dose of 1200 mg once per day for seven days in Study 14.

In addition, we also are utilizing a third party centralized rating service to independently evaluate the patients for entry into the study as well as to evaluate their level of response throughout their participation in the study. We believe the centralization of this process will improve the consistency of rating across clinical trial sites and reduce the background noise that was experienced in earlier studies and is endemic to many psychopharmacologic studies. We believe that this change in dose, as well as the other modifications to the protocol, should allow us to demonstrate the efficacy of CORLUX in the treatment of psychotic depression. In March 2009, we announced that, in order to conserve financial resources, we were scaling back our planned rate

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of spending on this trial and extended the timeline for its completion. As of early July 2009, we had completed the implementation of this strategy, which included reducing the number of clinical sites to eight.

Antipsychotic-induced Weight Gain Mitigation. In 2005, we published the results of studies in rats that demonstrated that CORLUX both reduced the weight gain associated with the ongoing use of olanzapine and mitigated the weight gain associated with the initiation of treatment with olanzapine (the active ingredient in Zyprexa). This study was paid for by Eli Lilly and Company, or Eli Lilly. During 2007, we announced positive results from our clinical proof-of-concept study in lean healthy male volunteers evaluating the ability of CORLUX to mitigate weight gain associated with the use of Zyprexa. The results showed a statistically significant reduction in weight gain in those subjects who took Zyprexa plus CORLUX compared to those who took Zyprexa plus placebo. Also, the addition of CORLUX to treatment with Zyprexa had a beneficial impact on secondary metabolic measures such as fasting insulin, triglycerides and abdominal fat, as indicated by waist circumference. Eli Lilly provided Zyprexa and financial support for this study. In January 2009 we announced positive results from a similar proof-of-concept study evaluating the ability of CORLUX to mitigate weight gain associated with the use of Johnson & Johnson's Risperdal. This study, which began in 2008, confirmed and extended the earlier results seen with CORLUX and Zyprexa, demonstrating a statistically significant reduction in weight and secondary metabolic endpoints of fasting insulin, triglycerides and abdominal fat, as indicated by waist circumference. The results from the study of CORLUX and Risperdal were presented at several scientific conferences, including the American Diabetes Association meeting in June 2009.

The combination of Zyprexa or Risperdal and CORLUX is not approved for any indication. The purpose of these studies was to explore the hypothesis that GR-II antagonists, such as CORLUX and our next generation of selective GR-II antagonists, would mitigate weight gain associated with antipsychotic medications. The group of medications known as second generation antipsychotic medication, including Zyprexa, Risperdal, Clozaril and Seroquel, are widely used to treat schizophrenia and bipolar disorder. All medications in this group are associated with treatment emergent weight gain of varying degrees and carry a warning in their labels relating to treatment emergent hyperglycemia and diabetes mellitus.

We have completed IND enabling work with CORT 108297, which included preclinical studies in the rat in antipsychotic induced weight gain, diet induced weight gain and insulin sensitivity. In February 2010, we initiated a Phase 1 study to evaluate the tolerability of this compound in healthy volunteers. CORT 108297 is the lead compound from our three series of selective GR-II antagonists. Preclinical studies of CORT 108297, presented at scientific conferences during 2009, demonstrated a statistically significant mitigation in weight gain and other metabolic effects when added to olanzapine, the active ingredient in Eli Lilly's medication Zyprexa. CORT 108297 also demonstrated the potential to mitigate weight gain caused by consumption of a high fat, high sucrose diet and improve insulin sensitivity in a preclinical mouse model.

Additional Indications. We have discovered three series of next-generation selective GR-II receptor antagonists, two of which have been patented in the United States and one of which is the subject of a pending U.S. patent application. As discussed above, the lead compound from these series, CORT 108297, is being developed for the prevention of weight gain induced by antipsychotic medication and is currently in a Phase 1 trial. There are numerous additional compounds in these three series that may be developed for weight gain mitigation or other diseases in which excess cortisol plays a role. The role of excess cortisol has been well established and documented in the scientific literature in diabetes, obesity, hypertension, osteoporosis, glaucoma, Alzheimer's disease and various other neurodegenerative diseases, in addition to antipsychotic-induced weight gain.

We were incorporated in the State of Delaware on May 13, 1998. Our registered trademarks include Corcept® and CORLUX®. Other service marks, trademarks and tradenames referred to in this prospectus are the property of their respective owners.

Our principal executive offices are located at 149 Commonwealth Drive, Menlo Park, CA 94025. Our telephone number is (650) 327-3270. Our web site address is www.corcept.com. The information found on our website, or otherwise accessible through our website, is not deemed to be part of this prospectus. References in this prospectus to we, us, our, our company or Corcept refer to Corcept Therapeutics Incorporated.

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USE OF PROCEEDS

We will not receive any of the proceeds from the sale of shares of our common stock in this offering. The selling stockholders will receive all of the proceeds from this offering.

The shares covered by this prospectus are issuable upon exercise of warrants to purchase our common stock. Upon any exercise for cash of the warrants, the selling stockholders will pay us the exercise price of the warrants of \$2.96 per share. If the selling stockholders exercise, on a cash basis, all of the warrants underlying the shares being registered, we will receive proceeds of approximately \$12.7 million. We intend to use such proceeds, if any, for general corporate purposes, including working capital. The exercise price and number of shares of common stock issuable upon exercise of the warrants may be adjusted in certain circumstances, including subdivisions and stock splits, stock dividends, combinations, reorganizations, reclassifications, consolidations, mergers or sales of properties and assets and upon the issuance of certain assets or securities to holders of our common stock, as applicable.

The selling stockholders will pay any underwriting discounts and commissions and expenses incurred by the selling stockholders for brokerage, accounting, tax or legal services or any other expenses incurred by the selling stockholders in disposing of the shares. We will bear all other costs, fees and expenses incurred in effecting the registration of the shares covered by this prospectus, including, without limitation, all registration and filing fees, Nasdaq listing fees and fees and expenses of our counsel and our independent registered public accountants.

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SELLING STOCKHOLDERS

On April 21, 2010, we entered into a warrant purchase agreement, or Warrant Purchase Agreement, with the selling stockholders, pursuant to which we sold in a private placement transaction warrants to purchase up to 4,286,395 shares of our common stock. This prospectus covers the sale or other disposition by the selling stockholders or their transferees of up to the total number of shares of common stock issuable upon exercise of the warrants issued to those selling stockholders pursuant to the Warrant Purchase Agreement. Throughout this prospectus, when we refer to the shares of our common stock being registered on behalf of the selling stockholders, we are referring to the shares underlying the warrants issued to the selling stockholders under the Warrant Purchase Agreement, and when we refer to the selling stockholders in this prospectus, we are referring to the purchasers under the Warrant Purchase Agreement.

The warrants issued to the purchasers in the private placement became exercisable on April 21, 2010 at an exercise price of \$2.96 per share and will expire three years from the date of issuance. The exercise price and number of shares of common stock issuable upon exercise of the warrants may be adjusted in certain circumstances, including subdivisions and stock splits, stock dividends, combinations, reorganizations, reclassifications, consolidations, mergers or sales of properties and assets and upon the issuance of certain assets or securities to holders of our common stock, as applicable.

We are registering the above-referenced shares to permit each of the selling stockholders and their pledgees, donees, transferees or other successors-in-interest that receive their shares after the date of this prospectus to resell or otherwise dispose of the shares in the manner contemplated under Plan of Distribution below.

Except as otherwise disclosed in the footnotes below with respect to any other selling stockholder, none of the selling stockholders has, or within the past three years has had, any position, office or other material relationship with us.

The following table sets forth the name of each selling stockholder, the number of shares owned by each of the respective selling stockholders, the number of shares that may be offered under this prospectus and the number of shares of our common stock owned by the selling stockholders assuming all of the shares covered hereby are sold. The number of shares in the column Number of Shares Being Offered represents all of the shares that a selling stockholder may offer under this prospectus, and assumes the cash exercise of all the warrants for common stock. The selling stockholders may sell some, all or none of their shares. We do not know how long the selling stockholders will hold the shares before selling them, and we currently have no agreements, arrangements or understandings with the selling stockholders regarding the sale or other disposition of any of the shares. The shares covered hereby may be offered from time to time by the selling stockholders.

The information set forth below is based upon information obtained from the selling stockholders and upon information in our possession regarding the issuance of shares of common stock to the selling stockholders in connection with the private placement transaction. The percentages of shares owned after the offering are based on 67,031,362 shares of our common stock outstanding as of April 21, 2010, including the shares of common stock covered hereby. Beneficial ownership is determined in accordance with the rules of the SEC, and includes voting and investment power with respect to the shares. Shares of common stock subject to outstanding options and warrants exercisable within 60 days of April 21, 2010 are deemed outstanding for computing the percentage of ownership of the person holding such options or warrants, but are not deemed outstanding for computing the percentage of any other person.

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Name of Beneficial Owner ⁽¹⁾	Shares of Common Stock Owned Prior to Offering ⁽²⁾	Number of Shares Being Offered ⁽³⁾	Shares of Common Stock Owned After Offering ⁽²⁾⁽⁴⁾	
			Number	Percent
Longitude Venture Partners, L.P. and affiliated entity and individual ⁽⁵⁾	15,012,908	856,644	14,156,264	20.4%
Sutter Hill Ventures and affiliated entities and individuals ⁽⁶⁾	13,618,891	659,245	12,959,646	19.0
G. Leonard Baker, Jr. ⁽⁷⁾	9,472,846	452,793	9,020,053	13.3
Ingalls & Snyder, LLC and affiliated entities and individuals ⁽⁸⁾	5,362,371	1,083,777	4,278,594	6.4
Federated Funds ⁽⁹⁾	4,755,247	979,022	3,776,225	5.6
Joseph C. Cook, Jr. ⁽¹⁰⁾	3,481,521	134,617	3,346,904	5.0
George H. Conrades ⁽¹¹⁾	2,175,652	122,378	2,053,274	3.1
David L. Mahoney ⁽¹²⁾	1,412,852	48,952	1,363,900	2.0
Vaughn D. Bryson ⁽¹³⁾	543,588	35,000	508,588	*
Thomas L. Gipson ⁽¹⁴⁾	540,000	140,000	400,000	*
Alexander Casdin ⁽¹⁵⁾	527,625	73,427	454,198	*
Douglas DeVivo ⁽¹⁶⁾	487,137	35,000	452,137	*
David E. Shaw ⁽¹⁷⁾	400,285	48,952	351,333	*
Steven D. Pruett ⁽¹⁸⁾	477,162	24,476	452,686	*
VP Company Investments 2008, LLC ⁽¹⁹⁾	51,002	2,448	48,554	*
Alan C. and Agnes B. Mendelson Family Trust ⁽²⁰⁾	102,004	2,448	99,556	*
All other selling stockholders as a group ⁽²¹⁾	626,964	40,009	586,955	*

* Less than 1% of our outstanding common stock.

Certain of these selling stockholders are affiliates of registered broker-dealers, as specified in the applicable numbered footnote. Each such entity has certified that it has purchased the shares being offered by it in the ordinary course of business, and at the time of the purchase of such shares, had no agreements or understandings, directly or indirectly, with any person to distribute such shares.

The selling stockholder is an affiliate of a registered broker-dealer. Such selling stockholder has certified that it has purchased the shares being offered by it in the ordinary course of business, and at the time of the purchase of such shares, had no agreements or understandings, directly or indirectly, with any person to distribute such shares.

⁽¹⁾ Additional selling stockholders not named in this prospectus will not be able to use this prospectus for resales until they are named in the selling stockholder table by prospectus supplement or post-effective amendment.

⁽²⁾ Beneficial ownership is a term broadly defined by the SEC in Rule 13d-3 under the Exchange Act, and includes more than the typical form of stock ownership, that is, stock held in the person's name. The term also includes what is referred to as indirect ownership, meaning ownership of shares as to which a person has or shares investment power. For purposes of this table, a person or group of persons is deemed to have beneficial ownership of any shares that are currently exercisable or exercisable within 60 days of April 21, 2010.

⁽³⁾ Assumes the exercise for cash of all warrants to purchase common stock offered in this prospectus held by the selling stockholders.

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- (4) Assumes that all shares being registered in this prospectus are resold to third parties and that with respect to a particular selling stockholder, such selling stockholder sells all shares of common stock registered under this prospectus held by such selling stockholder.

- (5) Includes (a) 11,670,770 shares held by Longitude Venture Partners, L.P., and 3,091,479 shares that may be acquired by that entity within 60 days of April 21, 2010 pursuant to warrants, (b) 156,159 shares held by Longitude Capital Associates, L.P. and 26,583 shares that may be acquired by that entity within 60 days of April 21, 2010 pursuant to warrants and (c) 67,917 shares that may be acquired by Patrick Enright within 60 days of April 21, 2010 pursuant to options. Longitude Capital

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Partners, LLC is the general partner of each of Longitude Venture Partners, L.P. and Longitude Capital Associates, L.P. and maintains voting and investment control over the shares held by each of Longitude Venture Partners, L.P. and Longitude Capital Associates, L.P. Juliet Tammenoms Bakker and Mr. Enright, a member of our Board of Directors, are the managing members of Longitude Capital Partners, LLC and thus may be deemed to have shared voting and investment power over the shares held by Longitude Venture Partners, L.P., and Longitude Capital Associates, L.P. Each of these individuals disclaims beneficial ownership of all such shares, except to the extent of his or her pecuniary interest therein. The address for Longitude Capital is 800 El Camino Real, Suite 220, Menlo Park, California 94025.

- (6) Consists of: (a) 5,525,017 shares held by Sutter Hill Ventures, A California Limited Partnership, which is referred to as Sutter Hill Ventures, and 707,752 shares that may be acquired by that entity within 60 days of April 21, 2010 pursuant to warrants, (b) 29,273 shares held by Sutter Hill Entrepreneurs Fund (AI), L.P., which is referred to as SHAI, (c) 74,113 shares held by Sutter Hill Entrepreneurs Fund (QP), L.P., which is referred to as SHQP, (d) 205,439 shares of common stock held by G. Leonard Baker, Jr., (e) 1,180,231 shares held by Mr. Baker, as Trustee of The Baker Revocable Trust, and 228,765 shares that may be acquired by that trust within 60 days of April 21, 2010 pursuant to warrants, (f) 839,059 shares held by Saunders Holdings, L.P. of which Mr. Baker is a general partner, and 115,015 shares that may be acquired by that entity within 60 days of April 21, 2010 pursuant to warrants, (g) 379,733 shares held by the Wells Fargo Bank, N.A. FBO SHV Profit Sharing Plan FBO G. Leonard Baker, Jr. and 98,449 shares that may be acquired by that plan for the benefit of Mr. Baker within 60 days of April 21, 2010 pursuant to a warrant, (h) 90,000 shares that may be acquired by Mr. Baker within 60 days of April 21, 2010 pursuant to options, (i) 752,082 shares held by Tench Coxe, as Trustee of The Coxe Revocable Trust, and 73,871 shares that may be acquired by that trust within 60 days of April 21, 2010 pursuant to a warrant, (j) 430,915 shares held by Wells Fargo Bank, N.A. FBO SHV Profit Sharing Plan FBO Tench Coxe and 87,706 shares that may be acquired by that plan for the benefit of Mr. Coxe within 60 days of April 21, 2010 pursuant to warrants, (k) 87,804 shares held by Mr. Coxe as Trustee of The Tamerlane Charitable Remainder Unitrust, (l) 342,048 shares held by Wells Fargo Bank, N.A. FBO SHV Profit Sharing Plan FBO David L. Anderson and 106,819 shares that may be acquired by that plan for the benefit of Mr. Anderson within 60 days of April 21, 2010 pursuant to warrants, (m) 327,603 shares held by Anvest, L.P., of which Mr. Anderson is the general partner, and 6,213 shares that may be acquired by that entity within 60 days of April 21, 2010 pursuant to a warrant, (n) 257,080 shares held by Mr. Anderson, as Trustee of The Anderson Living Trust and 6,213 shares that may be acquired by that trust within 60 days of April 21, 2010 pursuant to a warrant, (o) 11,136 shares held by Acrux Partners, L.P., of which The Anderson Living Trust is the general partner, (p) 491,719 shares held by Wells Fargo Bank, N.A. FBO SHV Profit Sharing Plan FBO William H. Younger, Jr. and 113,338 shares that may be acquired by that plan for the benefit of Mr. Younger within 60 days of April 21, 2010 pursuant to warrants, (q) 211,545 shares held by Mr. Younger, as Trustee of The William H. Younger, Jr. Revocable Trust, (r) 123,384 shares held by Yovest, L.P., of which The William H. Younger, Jr. Revocable Trust is the general partner, and 13,186 shares that may be acquired by that partnership within 60 days of April 21, 2010 pursuant to a warrant, (s) 118,350 shares held by Gregory P. Sands, as Trustee of The Gregory P. and Sarah J.D. Sands Trust Agreement and 19,530 shares that may be acquired by that trust within 60 days of April 21, 2010 pursuant to warrants, (t) 23,889 shares held by Gregory P. Sands, (u) 2,532 shares held by Wells Fargo Bank, N.A. FBO SHV Profit Sharing Plan FBO Gregory P. Sands, (v) 9,627 shares held by Mr. Sands, as Trustee of the Gregory P. Sands Charitable Remainder Unitrust, (w) 129,221 shares held by James N. White, as Trustee of The White Family Trust and 16,720 shares that may be acquired by that trust within 60 days of April 21, 2010 pursuant to warrants, (x) 19,086 shares held by Wells Fargo Bank, N.A. FBO SHV Profit Sharing Plan FBO James N. White and 2,039 shares that may be acquired by that plan for the benefit of Mr. White within 60 days of April 21, 2010 pursuant to a warrant, (y) 40,605 shares held by James C. Gaither, (z) 60,854 shares held by Tallack Partners, L.P., of which Mr. Gaither is a general partner, and 10,867 shares that may be acquired by that partnership within 60 days of April 21, 2010 pursuant to a warrant, (aa) 17,908 shares held by James C. Gaither, as Trustee of The Gaither Revocable Trust, (ab) 133,550 shares held by Jeffrey W. Bird, as Trustee of the Jeffrey W. and Christina R. Bird Trust Agreement and 16,893 shares that may be acquired by that trust within 60 days of April 21, 2010 pursuant to warrants, (ac) 21,938 shares held by David E. Sweet, as Trustee of The David and Robin Sweet Living Trust, and 728 shares that may be acquired by that trust within 60 days of April 21, 2010 pursuant to a warrant, (ad) 21,373 shares held by Wells Fargo Bank, N.A. FBO SHV Profit Sharing Plan FBO David E. Sweet and 5,968 shares that may be acquired by that plan for the benefit of Mr. Sweet within 60 days of April 21, 2010 pursuant to warrants, (ae) 9,627 shares held by David E. Sweet and (af) 19,384 shares held by Andrew T. Sheehan, as Trustee for the Sheehan 2003 Trust and 2,694 shares that may be acquired by that trust within 60 days of April 21, 2010 pursuant to warrants. Each of the selling stockholder named in parts (g), (j), (l), (p), (u), (x) and (ad) is an affiliate of a registered broker-dealer and has certified that it has purchased the shares being offered by it for the benefit of these named individuals in the SHV Profit Sharing Plan in the ordinary course of business, and at the time of the purchase of such shares, had no agreements or understandings, directly or indirectly, with any person to distribute such shares.

Mr. Baker, a member of our Board of Directors, may be deemed to have shared voting and investment power with respect to the shares and warrants held by The Baker Revocable Trust and Saunders Holdings, L.P. Mr. Baker is also a managing director of the general partner of Sutter Hill Ventures, SHAI and SHQP. Mr. Baker, Sutter Hill Ventures, SHAI and SHQP do not have voting or investment power with respect to the shares held by individuals affiliated with Sutter Hill Ventures and entities affiliated with such individuals referenced under parts (i) through (af) of this note. Mr. Baker, David L. Anderson, William H. Younger, Jr., Tench Coxe, Gregory P. Sands, James C. Gaither, James N. White, Jeffrey W. Bird, David E. Sweet, Andrew T. Sheehan and Michael L. Speiser, referred to collectively as the Sutter Hill Principals, may be deemed to have shared

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voting and investment power with respect to the shares held by Sutter Hill Ventures, SHAI and SHQP. As a result of the shared voting and investment power referenced herein, Messrs. Baker, Anderson, Younger, Coxe, Sands, Gaither, White, Bird, Sweet, Sheehan and Speiser may each be deemed to beneficially own the shares held by Sutter Hill Ventures, SHAI and SHQP. In addition to the beneficial ownership of the shares held by Sutter Hill Ventures, SHAI and SHQP, the Sutter Hill Principals may each be deemed to have beneficial ownership of shares held in their own names and, as the result of shared voting and investment power, shares held by other entities as follows: Mr. Coxe may be deemed to have shared voting and investment power with respect to the shares and warrants held by The Coxe Revocable Trust and The Tamerlane Charitable Remainder Unitrust; Mr. Anderson may be deemed to have shared voting and investment power with respect to the shares and warrants held by Anvest, L.P., The Anderson Living Trust and Acrux Partners, L.P.; Mr. Younger may be deemed to have shared voting and investment power with respect to the shares and warrants held by The William H. Younger, Jr. Revocable Trust and Yovest, L.P.; Mr. Sands may be deemed to have shared voting and investment power with respect to the shares and warrants held by the Gregory P. and Sarah J.D. Sands Trust Agreement and the Gregory P. Sands Charitable Remainder Unitrust; Mr. White may be deemed to have shared voting and investment power with respect to the shares and warrants held by The White Family Trust; Mr. Gaither may be deemed to have shared voting and investment power with respect to the shares and warrants held by Tallack Partners, L.P. and The Gaither Revocable Trust; Mr. Bird may be deemed to have shared voting and investment power with respect to the shares and warrants held by the Bird Trust; Mr. Sweet may be deemed to have shared voting and investment power with respect to the shares and warrants held by The David and Robin Sweet Living Trust and Mr. Sheehan may be deemed to have shared voting and investment power with respect to the shares and warrants held by the Sheehan 2003 Trust. Each of these individuals disclaims beneficial ownership of all holdings reflected herein, except to the extent of his individual pecuniary interest therein.

The address for Sutter Hill Ventures and affiliates is 755 Page Mill Road, Suite A-200, Palo Alto, CA 94304.

- (7) Consists of all shares referenced in footnote (6) other than the shares and warrants referenced under parts (i) through (af) of footnote (6).
- (8) Consists of (a) 2,700,000 shares held by Ingalls & Snyder Value Partners, L.P., or Ingalls, and 700,000 shares that may be acquired by Ingalls within 60 days of April 21, 2010 pursuant to a warrant, (b) 98,313 shares held by Ingalls & Snyder LLC, (c) 1,350,000 shares held by Robert L. Gipson and 350,000 shares that may be acquired by Mr. Gipson within 60 days of April 21, 2010 pursuant to a warrant and (d) 130,281 shares held by Thomas O. Boucher, Jr. and 33,777 shares that may be acquired by Mr. Boucher within 60 days of April 21, 2010 pursuant to a warrant. Ingalls & Snyder LLC, the investment advisor of Ingalls, and Mr. Boucher, Mr. Gipson, and Adam Janovic, each a general partner of Ingalls, share investment power over the shares held by Ingalls. Messrs. Boucher, Gipson and Janovic share voting power over the shares held by Ingalls. Each of these individuals disclaims beneficial ownership of all such shares, except to the extent of his individual pecuniary interest therein. The address for Ingalls & Snyder LLC is 61 Broadway, New York, New York 10006.
- (9) Consists of (a) 3,075,523 shares beneficially held by Federated Kaufmann Fund, or FKF, and 797,358 shares that may be acquired by that entity within 60 days of April 21, 2010 pursuant to a warrant, (b) 467,262 shares beneficially held by Federated Kaufmann Small Cap Fund, or FKSCF, and 121,142 shares that may be acquired by that entity within 60 days of April 21, 2010 pursuant to a warrant, (c) 166,377 shares beneficially held by American Skandia Trust, Federated Aggressive Growth Portfolio, or ASTAG, and 43,135 shares that may be acquired by that entity within 60 days of April 21, 2010 pursuant to a warrant and (d) 67,063 shares beneficially held by Federated Kaufmann Fund II, or FKFII, and 17,387 shares that may be acquired by that entity within 60 days of April 21, 2010 pursuant to a warrant. Each of FKF and FKSCF is a portfolio of Federated Equity Funds, an investment company registered under the Investment Company Act of 1940, as amended, or Investment Company Act. American Skandia Trust, Federated Aggressive Growth Portfolio, or ASTAG, is a portfolio of Advanced Series Trust, an investment company registered under the Investment Company Act. ASTAG's investment advisors are Prudential Investments LLC and AST Investment Services, Inc., which have delegated daily management of the fund's assets to Federated Equity Management Company of Pennsylvania, or FEMCPA, as sub-advisor. Federated Kaufmann Fund II, or FKFII, is a portfolio of Federated Insurance Series, an investment company registered under the Investment Company Act. We refer to FKF, FKSCF, ASTAG and FKFII collectively as the Federated Funds. The parent holding company of the advisors of each Federated Fund is Federated Investors Inc., or FII. The advisor of each Federated Fund is FEMCPA, which has delegated daily management of the fund's assets to Federated Global Investment Management Corp., or FGIMC, as subadvisor. In the case of ASTAG, FEMCPA as sub-advisor, has delegated daily management of the fund's assets to FGIMC as sub-sub-advisor. While the officers and directors of FEMCPA have dispositive power over the portfolio securities of each of the Federated Funds, they customarily delegate this dispositive power, and therefore the day-to-day dispositive decisions are made by the portfolio managers of each of Federated Funds. The portfolio managers disclaim any beneficial ownership of these securities. With respect to voting power, each of the Federated Funds has

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delegated the authority to vote proxies to FEMCPA. FEMCPA has established a Proxy Voting Committee to cast proxy votes on behalf of each of the Federated Funds in accordance with proxy voting policies and procedures approved by the applicable Federated Fund. Securities are held of record by Playback & Co., Boathorn & Co., Hare & Co. and Turnseal & Co. on behalf of FKF, FKSCF, ASTAG and FKFII, respectively. FKF, FKSCF and FKFII s address is 4000 Ericsson Drive, Warrendale, Pennsylvania 15086-7561. ASTAG s address is Gateway Center Three, 100 Mulberry Street, Newark, NJ 07102.

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- (10) Consists of (a) 1,130,000 shares held by Farview Management, Co. L.P., a Texas limited partnership, and 14,402 shares that may be acquired by that entity within 60 days of April 21, 2010 pursuant to a warrant, (b) 1,082,011 shares and 193,258 shares that may be acquired within 60 days of April 21, 2010 pursuant to warrants that are held jointly by Joseph C. Cook, Jr. and Judith Cook (c) 476,016 shares held by the Joseph C. Cook, Jr., IRA Rollover, or Cook IRA, and 86,839 shares that may be acquired by the Cook IRA within 60 days of April 21, 2010 pursuant to a warrant, (d) 350,000 shares held by the Judith E. and Joseph C. Cook, Jr. Foundation, Inc. and 13,995 shares that may be acquired by that entity within 60 days of April 21, 2010 pursuant to a warrant and (e) 135,000 shares that may be acquired by Mr. Cook within 60 days of April 21, 2010 pursuant to options. Mr. Cook and Judith E. Cook may be deemed to have shared voting and investment power over the shares held by the Cook Foundation. Each of these individuals disclaims beneficial ownership of all such shares, except to the extent of his or her pecuniary interest therein. Mr. Cook and Judith E. Cook may be deemed to have shared voting and investment power over the shares held in joint name. Mr. Cook is a member of our Board of Directors.
- (11) Consists of (a) 1,378,873 share held by Mr. Conrades and 183,330 shares that may be acquired by Mr. Conrades within 60 days of April 21, 2010 pursuant to warrants and (b) 521,727 shares held by Pelmea, L.P., or Pelmea, and 91,722 shares that may be acquired by Pelmea within 60 days of April 21, 2010 pursuant to warrants. George H. Conrades is the Managing Member of Pelmea, L.P. and may be deemed to have voting and investment power over the shares held by Pelmea. Mr. Conrades disclaims beneficial ownership of all such shares, except to the extent of his pecuniary interest therein. The address for George H. Conrades and Pelmea is 344 Beacon Street, Boston, MA 02116.
- (12) Consists of (a) 1,118,062 shares held by the David L. Mahoney and Winnifred C. Ellis 1998 Family Trust and 114,790 shares that may be acquired by the Trust within 60 days of April 21, 2010 pursuant to warrants and (b) 180,000 shares that may be acquired by Mr. Mahoney within 60 days of April 21, 2010 pursuant to options. Mr. Mahoney is a member of our Board of Directors.
- (13) Consists of (a) 241,749 shares held by the Bryson 2008 Grantor Revocable Annuity Trust, or the Bryson 2008 GRAT, and 35,304 shares that may be acquired by the Bryson 2008 GRAT within 60 days of April 21, 2010 pursuant to a warrant and (b) 235,000 shares held by the Vaughn D. Bryson Revocable Trust, or the Bryson Trust, and 45,687 shares that may be acquired by the Bryson Trust within 60 days of April 21, 2010 pursuant to warrants. The address for Mr. Bryson is 719 Grove Place, Vero Beach, FL 32963.
- (14) Consists of (a) 540,000 shares held by Mr. Thomas L. Gipson and (b) 140,000 shares that may be acquired by Mr. Gipson within 60 days of April 21, 2010 pursuant to a warrant. The address for Mr. Gipson is 61 Broadway, New York, New York 10006.
- (15) Consists of (a) 438,931 shares held by Mr. Casdin and (b) 88,694 shares that may be acquired within 60 days of April 21, 2010 pursuant to warrants. The address for Mr. Casdin is 131 East 66th Street, 10-D, New York, NY 10065.
- (16) Consists of (a) 288,798 shares held of record by the Douglas G & Irene E. DeVivo Revocable Trust, or DeVivo Trust, and 28,339 shares that may be acquired by the DeVivo Trust within 60 days of April 21, 2010 pursuant to warrants and (b) 135,000 shares held of record by the DeVivo Asset Management Co. LLC, Money Purchase Plan, or Plan, and 35,000 shares that may be acquired by the Plan within 60 days of April 21, 2010 pursuant to warrants. Mr. DeVivo and Irene E. DeVivo have shared voting and investment power over the shares held by the DeVivo Trust. Mr. DeVivo is the Trustee of the Plan and may be deemed to have voting and investment power over the shares held by the Plan. Mr. DeVivo disclaims beneficial ownership of all such shares, except to the extent of his pecuniary interest therein. The address for Mr. DeVivo is 40 Laburnum Road, Atherton, CA 94027.
- (17) Consists of (a) 98,181 shares held by David E. Shaw and 24,476 shares that may be acquired within 60 days of April 21, 2010 pursuant to a warrant and (b) 209,022 shares held by Black Point Group, L.P., or Black Point, and 68,606 shares that may be acquired by Black Point within 60 days of April 21, 2010 pursuant to warrants. Messrs. David E. Shaw and Ben Shaw are general partners of Black Point and may be deemed to have voting and investment power over the shares held by Black Point. Each of these individuals disclaims beneficial ownership of all such shares, except to the extent of his pecuniary interest therein. The address for Mr. D. Shaw is 542 Blackpoint Road, Scarborough, ME 04074. The address for Black Point Group, L.P. is 100 Fore Street, Portland, ME 04101.

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- ⁽¹⁸⁾ Consists of 415,835 shares held by Mr. Pruett and 58,827 shares that may be acquired by Mr. Pruett within 60 days of April 21, 2010 pursuant to warrants. The address for Mr. Pruett is 6963 Verde Way, Naples, FL 34108.
- ⁽¹⁹⁾ Includes 2,448 shares that may be acquired by VP Company Investments 2008, LLC within 60 days of April 21, 2010 pursuant to warrants. Certain current and former partners of Latham & Watkins LLP, including Alan C. Mendelson, are members of VP Company Investments 2008, LLC and may be deemed to have voting and investment power over the shares held by VP Company Investments 2008, LLC. Each of these individuals disclaims beneficial ownership of all such shares, except to the extent of his or her pecuniary interest therein. VP Company Investments 2008, LLC is an affiliate of Latham & Watkins LLP, which has rendered, and will continue to render, legal services to us.

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- ⁽²⁰⁾ Includes (a) 2,448 shares that may be acquired by VP Company Investments 2008, LLC within 60 days of April 21, 2010 pursuant to warrants and (b) 2,448 shares that may be acquired by the Alan C. and Agnes B. Mendelson Family Trust within 60 days of April 21, 2010 pursuant to warrants. Alan C. Mendelson is a partner of Latham & Watkins LLP, which has rendered, and will continue to render, legal services to us.
- ⁽²¹⁾ Includes each other selling stockholder who in the aggregate own less than 1% of our common stock. Beneficial ownership of these stockholders consists of 571,569 shares held by these stockholders and 55,395 shares that may be acquired by these stockholders within 60 days of April 21, 2010 pursuant to warrants. These stockholders include Byron W. Smith, Joseph C. Cook, III and Steven D. Singleton. These stockholders also include Wells Fargo Bank, N.A. FBO SHV Profit Sharing Plan FBO Diane J. Naar, Wells Fargo Bank, N.A. FBO SHV Profit Sharing Plan FBO Yu-Ying Chen, Wells Fargo Bank, N.A. FBO SHV Profit Sharing Plan FBO Patricia Tom (Post) and Wells Fargo Bank, N.A. FBO SHV Profit Sharing Plan FBO Robert Yin. Wells Fargo Bank, N.A., Trustee of the Sutter Hill Ventures Profit Sharing Plan, or SHV PSP, is an affiliate of a registered broker-dealer and has certified that it has purchased the shares being offered by it for the benefit of these named individuals in the SHV PSP in the ordinary course of business, and at the time of the purchase of such shares, had no agreements or understandings, directly or indirectly, with any person to distribute such shares.

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PLAN OF DISTRIBUTION

The selling stockholders and any of their pledgees, donees, transferees, assignees or other successors-in-interest may, from time to time, sell, transfer or otherwise dispose of any or all of their shares of common stock or interests in shares of common stock on any stock exchange, market or trading facility on which the shares are traded or in private transactions. These dispositions may be at fixed prices, at prevailing market prices at the time of sale, at prices related to the prevailing market price, at varying prices determined at the time of sale, or at negotiated prices. The selling stockholders may use one or more of the following methods when disposing of the shares or interests therein:

ordinary brokerage transactions and transactions in which the broker-dealer solicits purchasers;

block trades in which the broker-dealer will attempt to sell the shares as agent but may position and resell a portion of