Guidance® SOFTWARE

EnCase®

2012 Annual Report

Dear Shareholders,

Last year was another record year for Guidance Software. In 2012 we continued to significantly expand our presence in the forensics, cybersecurity and e-discovery markets. We reported:

- Non-GAAP revenues of $130.9 million, an increase of 24% over 2011
- Non-GAAP net income of $0.40 per share
- $9.3 million in cash flow from operations and an ending cash balance of $32.6 million

Early in the year, we completed our acquisition of CaseCentral, a pioneer of cloud-based e-discovery review and production software. In the fall, we also released EnCase® eDiscovery Version 5, which delivers seamless integration and one-click upload of information to CaseCentral's review and production platform, now known as EnCase® eDiscovery Review. The combined offering provides full-spectrum Electronic Discovery Reference Model (EDRM) coverage. EnCase® eDiscovery provides the legal hold, identification, collection, preservation, and processing functions on-premise, at the customer site — close to the sources of data and the data custodians — while EnCase® eDiscovery Review delivers the review and production functions as SaaS in the Cloud. This enables geographically dispersed inside and outside counsel to efficiently review collected documents without needing any special equipment or software other than a web browser and internet connectivity. We believe our continued investment in and delivery of innovative, complete and integrated e-discovery solutions led to Gartner Research again positioning Guidance Software in the "Leaders" quadrant of its 2012 Magic Quadrant for E-Discovery Software report.

In 2012 we continued to execute on our "EnCase® Everywhere" strategy. Each new EnCase® Enterprise customer represents a potential upsell opportunity for higher-value add-on products built on the EnCase® Enterprise platform, namely EnCase® eDiscovery and EnCase® Cybersecurity as well as our training and professional services offerings. This has led to strong results, including:

- A record 358 new EnCase® Enterprise customers, compared to 285 in 2011 and 91 in 2010, bringing the total to more than 1,500
- Over sixty-five percent of the Fortune 100 and more than forty percent of the Fortune 500 are now EnCase® Enterprise customers

We remain focused on growing our leading position in the e-discovery, forensics, and cybersecurity markets. Recent integrations between EnCase® Cybersecurity and leading security information and event management (SIEM) products like HP ArcSight are proving our market messaging that automating incident response is key to reducing risk and negative outcomes of the now inevitable cyber breaches aimed at the enterprise. As such, in 2013 we will continue to expand the capabilities of our EnCase® Cybersecurity product with additional integrations with SIEM tools such as the recently announced FireEye MPS integration, as well as with advanced malware identification tools. We will also invest in additional sales and marketing capabilities in Europe, the Middle East, and the Asia Pacific regions in response to increased demand for our EnCase® Enterprise and EnCase® Cybersecurity products as well as the planned launch a new product built on the EnCase® Enterprise platform and targeted at the IT Security market.

In March 2013 we launched EnCase® App Central, a one-stop shop for EnScript® apps that automate and extend digital-investigation functionality in EnCase products for our community of users. Each app is vetted and tested by a technical team inside Guidance Software before being made available at EnCase App Central.

We continue to see evidence that our business is stronger than ever and that our increasing customer base, together with continued investment in new products, technology and international opportunities, position us well for strong growth in the coming years. I want to thank our Board, our management team, and our dedicated employees, whose day-in and day-out commitment to innovation and quality make our continuing success possible.

Sincerely,

Victor T. Limongelli
President and Chief Executive Officer
Guidance Software, Inc.

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10–K

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

FOR THE FISCAL YEAR ENDED DECEMBER 31, 2012

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 001-33197

GUIDANCE SOFTWARE, INC.

(Exact name of registrant as specified in its charter)

Delaware (State or other jurisdiction of incorporation or organization)	**95-4661210** (I.R.S. Employer Identification No.)
215 North Marengo Avenue **Pasadena, California 91101** (Address of principal executive offices)	**(626) 229-9191** (Registrant's telephone number, including area code)

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

Common Stock, $0.001 par value per share (Title of each class)	**The NASDAQ Stock Market LLC** (Name of each exchange on which registered)

Securities registered pursuant to Section 12(g) of the Act: **None.**

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

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

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

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

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

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

Large accelerated filer ☐	Accelerated filer ☐
Non-accelerated filer ☒	Smaller reporting company ☐

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

As of June 30, 2012, the aggregate market value of the registrant's common stock held by non-affiliates of the registrant was approximately $76,754,000* based on the closing sale price as reported on the Global Market tier of The NASDAQ Stock Market LLC. As of February 11, 2013 there were approximately 25,600,000 shares of the registrant's Common Stock outstanding, net of treasury shares.

* Excludes shares of Common Stock held by executive officers, directors and stockholders whose ownership exceeds 5% of the shares outstanding on that date. This calculation does not reflect a determination that such persons are affiliates for any other purposes.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the registrant's definitive proxy statement to be filed with the Commission pursuant to Regulation 14A in connection with the registrant's 2013 Annual Meeting of Stockholders (the "Proxy Statement") or portions of the registrant's 10-K/A, to be filed subsequent to the date hereof, are incorporated by reference into Part III of this Report. Such Proxy Statement or 10-K/A will be filed with the Commission not later than 120 days after the conclusion of the registrant's fiscal year ended December 31, 2012.

GUIDANCE SOFTWARE, INC.
FORM 10-K
FOR THE FISCAL YEAR ENDED DECEMBER 31, 2012
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TRADEMARKS

EnCase®, EnScript®, FastBloc®, EnCE®, EnCEP®, CEIC®, CaseCentral®, CaseCentral eDiscovery Cloud®, Guidance Software™ and Tableau™ are registered trademarks or trademarks owned by Guidance Software in the United States and other jurisdictions and may not be used without prior written permission. All other trademarks and copyrights referenced in this report are the property of their respective owners. We do not intend our use or display of other companies' trade names, trademarks or service marks to imply a relationship with, or endorsement or sponsorship of us by, these other companies.

FORWARD-LOOKING STATEMENTS AND FACTORS THAT MAY AFFECT FUTURE RESULTS

This Annual Report, including the section entitled "Management's Discussion and Analysis of Financial Condition and Results of Operations," contains forward-looking statements regarding our vision and business strategy, financial condition, results of operations, products and technologies, expectation of competitive pressures and prospects. Such statements are based upon current expectations that involve risks and uncertainties. For example, words such as "may," "will," "should," "expects," "anticipates," "intends," "plans," "believes," "seeks," "estimates" and similar expressions or variations of such words are intended to identify forward-looking statements. Additionally, any statements contained herein that are not statements of historical facts or that concern future matters such as the development of new products, sales levels, expense levels and other statements regarding similar matters may be deemed to be forward-looking statements.

Although forward-looking statements in this Annual Report reflect the good faith judgment of our management, such statements can only be based on facts and factors currently known by us. Consequently, forward-looking statements are inherently subject to risks and uncertainties and actual results and outcomes may differ materially from the results and outcomes discussed in or anticipated by the forward-looking statements. Factors that could cause or contribute to such differences in results and outcomes include, without limitation, those discussed under the heading "Risk Factors" below, as well as those discussed elsewhere in this Annual Report. Readers are urged not to place undue reliance on these forward-looking statements, which speak only as of the date of this Annual Report. We undertake no obligation to revise or update any forward-looking statements in order to reflect any event or circumstance that may arise after the date of this Annual Report. Readers are urged to carefully review and consider the various disclosures made in this Annual Report, which attempt to advise interested parties of the risks and factors that may affect our business, financial condition, results of operations and prospects.

PART I

Item 1. Business

Overview

Guidance Software, Inc. is the leading global provider of digital investigative solutions. Our EnCase® platform provides an investigative infrastructure that enables our customers to search, collect, and analyze electronically stored information in order to address human resources matters, litigation matters, allegations of fraud, suspicious network endpoint activity and defend their organization's data assets.

EnCase® Enterprise provides organizations with in-depth visibility into laptops, desktops, and file servers in order to conduct internal investigations and to quickly determine the root cause of suspicious network activity. EnCase Enterprise is used in a wide variety of circumstances, including investigations of allegations of fraud or misconduct, intellectual property theft, and corporate policy compliance. In addition, EnCase Enterprise serves as a platform on which more powerful electronic discovery ("e-discovery") and cybersecurity products, described below, are built.

EnCase® eDiscovery is our enterprise-wide e-discovery solution addressing the end-to-end e-discovery needs of corporations and government agencies. Following the acquisition of CaseCentral in February 2012, the e-discovery product portfolio spans from legal hold to identification, collection, preservation, processing, first pass review, and early case assessment ("ECA") review and production capabilities. The integrated offering deploys software intelligently, delivering the legal hold, identification, collection, preservation, and processing functions on-premise, at the customer site — close to the sources of data and the data custodians — and the ECA, review and production functions as SaaS in the Cloud, so that geographically dispersed inside and outside counsel can efficiently review collected documents without needing any special equipment or software other than a web browser and internet connectivity.

EnCase® Cybersecurity provides crucial IT security functionality to enterprises and government agencies through its incident response and sensitive data discovery capabilities. The incident response capabilities provide organizations that have received an alert of suspicious network behavior with forensic-level visibility of the relevant endpoint data, valuable information from memory, and the ability to search the enterprise for identical or similar threats. These capabilities enable an organization to remediate any malicious code or processes running on the affected computers and to return the network to a trusted state. The sensitive data discovery capabilities enable organizations to rapidly identify IT assets (servers, desktops, laptops, etc.) holding sensitive data (such as credit card numbers, social security numbers, patient health information, and other personally identifiable information) in violation of legally mandated regulations, industry standards, and corporate policies. Further, they allow an organization to quickly remediate any identified violations and thereby improve compliance.

EnCase® Forensic, the industry-standard computer investigation solution, enables forensic practitioners to conduct efficient, forensically sound digital data collection and investigations. The EnCase Forensic solution lets examiners acquire data from a wide variety of devices, unearth potential evidence with disk level forensic analysis, and craft comprehensive reports on their findings, all while maintaining the integrity of the evidence.

Our Tableau™ product family of forensic hardware products including forensic duplicators, multiple write blockers and other hardware, complements our industry-leading software to fulfill the needs of the computer forensic community.

The widespread reliance on digital business processes and the explosive growth in the volume of electronic data have resulted in exposure to electronic data-related risks and created the need to properly conduct digital investigations. The global adoption of local area networks, wide area networks, e-mail and the Internet have increased communications within and between organizations and have created the ability to generate, store, share and distribute massive amounts of electronic information instantaneously without regard to physical location. While the adoption and reliance on these technologies has significantly increased productivity and lowered the cost of doing business for Global 2000 companies, government agencies and other organizations, it has also exposed organizations to many increasing areas of risk associated with the continued proliferation of electronic data. Organizations now are increasingly faced with the need to recover and analyze vast amounts of electronic data quickly and efficiently through processes we refer to as digital investigations. Digital investigations are conducted to address various electronic data-related needs, including:

- searching, collecting and processing litigation-related data, or responding to discovery requests for electronic data, or "e-discovery" requests, where a company must conduct a thorough yet timely review of electronic data in order to produce electronic documents or other digital evidence in connection with a particular civil or administrative proceeding;

- responding to regulatory data requests, where an organization must efficiently and rapidly produce electronic documents and digital evidence in connection with a project under regulatory review in a manner acceptable to the regulators;

- addressing corporate policy violations, such as intellectual property theft, employee fraud and employee policy violations, all of which must be investigated rapidly, described in a detailed, complete and comprehensible report of the incident and mitigated and remedied across an enterprise network as necessary, all while minimizing business interruption; and

- responding to IT security attacks or breaches, where an organization must expeditiously and unobtrusively determine which systems or files were affected, the nature of the attack and how to remediate the issue quickly before any further damage occurs.

Traditional digital investigations involve internal investigators or third-party consultants manually searching through multitudes of electronic data in an attempt to discover traces or "fingerprints" of electronic data-related incidents. Such investigators or third-party consultants typically use software applications, utilities or processes, such as taking the affected servers, desktops and laptops off-line, so that they can remove, image or copy the hard drives, manually extract the data in question on each affected computer and save the affected files to another hard drive for processing and analysis by consultants or other third-party experts. These traditional digital investigations suffer from several distinct problems in that they are costly and time-consuming, they require significant expertise to conduct across complex enterprise network environments, they may not adequately combat attempts to conceal data, they often result in unwanted exposure of sensitive materials and disrupt business, and they are difficult to conduct in a forensically sound manner. Establishing a comprehensive digital investigative software platform can help organizations address the inadequacies of traditional digital investigations and cost-effectively mitigate the risk of electronic data-related threats.

We complement our product offerings with a comprehensive array of professional and training services including technical support and maintenance services to help our customers implement our solutions, conduct investigations and train their IT and legal professionals to effectively and efficiently use our products. Our products are used by a wide variety of industries and some of the world's best known technology, financial and insurance services, defense, energy, pharmaceutical, manufacturing, healthcare and retail companies. Our EnCase Enterprise customer base currently includes more than sixty-five percent of the Fortune 100 and more than forty percent of the Fortune 500, and we have sold our EnCase Forensic software to more than 1,000 enterprises and government and law enforcement agencies worldwide.

For the fiscal year ended December 31, 2012, we reported total revenues of $129.5 million, employed approximately 475 employees and conducted business in over 65 countries. We were incorporated in California in November 1997 and reincorporated in Delaware in December 2006.

Our Internet address is http://www.guidancesoftware.com. The following filings are posted to our Investor Relations web site, located at http://investors.guidancesoftware.com as soon as reasonably practical after submission to the United States (U.S.) Securities and Exchange Commission (SEC): annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, the proxy statements related to our most recent annual stockholders' meetings and any amendments to those reports or statements filed or furnished pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended. All such filings are available free of charge on our Investor Relations web site. The contents of these web sites are not intended to be incorporated by reference into this report or in any other report or document we file and any reference to these web sites are intended to be inactive textual references only.

Business Strategy

Our business strategy is to develop and support superior solutions that enable corporate, government and law enforcement organizations to conduct thorough and effective computer investigations of any kind, including intellectual property theft, incident response, compliance auditing and responding to e-discovery requests, all while maintaining the forensic integrity of the data. A key driver behind this strategy is the development and introduction of new products and improvements to our existing products. Our goal is to develop more powerful, user friendly and affordable products without compromising on our technological commitment. We are focused on gaining more EnCase® Enterprise customers, and then offering them higher-value products, such as EnCase eDiscovery and EnCase Cybersecurity, that automate and enhance functionality in the enterprise forensics, e-discovery, and cybersecurity spheres. In addition, we are focused on continuing our leadership in computer forensics technology with innovative software and hardware for a complete forensic framework.

Our Products and Services

Our products and services give our customers the ability to conduct comprehensive, cost-effective and precise digital investigations. Our EnCase® Enterprise software provides the foundation to build an enterprise investigation infrastructure. Furthermore, we believe our EnCase Forensic software is the industry standard for searching, collecting, preserving, analyzing and authenticating electronic computer forensic data for use in criminal and civil court proceedings. Our forensic software and hardware products address the complete forensic process. We also offer a comprehensive array of investigative services and training to help our customers manage their internal digital investigations and learn how to effectively and efficiently use our software.

EnCase® Enterprise

EnCase Enterprise provides an investigative platform that enables an organization to search, collect, preserve and analyze data on the servers, desktops and laptops across the network. EnCase Enterprise enables organizations to respond to electronic discovery requests and conduct internal investigations, including those related to human resources or those focused on compliance or fraud. Companies can also collect and preserve data in response to regulator requests or for civil litigation matters.

EnCase Enterprise serves as the platform for an enterprise investigative infrastructure, to which additional products can be added to enhance and automate the search, collection, preservation and analysis of data in order to accomplish specific business tasks such as: responding to electronic discovery requests; performing proactive, enterprise-wide data audits for sensitive information, including personally identifiable information, classified data, and intellectual property; and responding to and remediating network threats or intrusions. These products, which can be added to perform the functions above, include EnCase eDiscovery, and EnCase Cybersecurity.

EnCase® eDiscovery

EnCase eDiscovery is our enterprise-wide e-discovery solution addressing the end-to-end e-discovery needs of corporations and government agencies. Following the acquisition of CaseCentral in February 2012, the e-discovery product portfolio spans from legal hold to identification, collection, preservation, processing, first pass review, and early case assessment ("ECA"), review and production capabilities. Using a distributed, enterprise-wide scalable architecture, it collects and processes only potentially relevant data, and it preserves evidence and metadata in the court-validated EnCase Evidence File format to ensure complete chain of custody from the moment the legal hold is issued until documents are produced to the opposing party. EnCase eDiscovery tracks activity at every step of the e-discovery process so that the status of projects can be viewed, audited, and communicated to others. The ECA, review and production capabilities are available on a SaaS-basis and are performed in the Cloud, so that geographically dispersed inside and outside counsel can efficiently review collected documents without needing any special equipment or software other than a web browser and internet connectivity

Once the initial search has been conducted and the information has been collected, EnCase eDiscovery culls and processes the data to further reduce the volume of irrelevant or duplicate information. The solution distributes processing in an organized fashion so that several dozen machines can process terabytes of data without disrupting business and degrading network performance. The collected and processed data can then seamlessly be uploaded onto the available attorney review and production platform to complete the e-discovery process.

The integrated review and production platform is designed to overcome the disadvantages of traditional approaches to e-discovery review and production by:

- Providing real time visibility and management oversight of the end-to-end e-discovery process;
- Leveraging a unique multi-matter architecture that eliminates duplication of effort across cases and enabling e-discovery teams to re-use previous work product such as document coding and tagging or collected ESI; and,
- Delivering a comprehensive e-discovery product that seamlessly uploads document sets and their associated metadata and attorney work product to a centralized legal repository.

EnCase eDiscovery offers:

- A comprehensive, integrated e-discovery solution that exceeds corporate requirements for security, oversight, risk management, and compliance;
- The fastest and most comprehensive collection and processing e-discovery product;
- Both early and continuous case assessment, enabling legal teams to quickly obtain necessary facts at any time from pre- through post-collection phases;

- The ability to use secure, scalable, cloud review and production capabilities while keeping collection and preservation close to data and its custodians;
- Unparalleled search and identification capabilities for electronically stored information (ESI) across multiple digital platforms and devices; and
- De-duplication across cases and comparison of current cases to previous matters to ensure that documents withheld in one matter are never produced in another.

The e-discovery market has been fragmented, lacking a fully integrated solution, and relying on multiple point solutions, which breeds inefficiencies, causes delays, increases risk and, ultimately, cost. Typically, in any given technology market, the introduction of integrated offerings drives broader technology adoption, and the e-discovery market should be no different. EnCase eDiscovery is the industry's first fully integrated e-discovery solution. EnCase eDiscovery provides customers' legal and IT teams with one integrated, unified software solution that delivers all of the functionality that organizations desire for in-house electronic discovery, including:

- Legal hold;
- Pre-collection analytics;
- Identification, preservation and collection;
- Processing and analysis;
- Early and continuous case assessment; and
- SaaS-based review and production.

EnCase® Cybersecurity

EnCase Cybersecurity is a security solution offering incident response and sensitive data discovery software capabilities. Through its incident response capabilities, it reduces the risk of network breaches by providing the ability to expose, triage, and remediate threats that have escaped detection by layered security solutions and have infiltrated the enterprise; and by providing the ability to enforce data policy compliance on endpoints. It is designed to determine the root cause and scope of any given event and provides forensic level visibility and analysis of endpoint data in order to find and remediate threats designed to evade layered security solutions, and return endpoints to a trusted state.

The EnCase Cybersecurity sensitive data discovery capabilities enable organizations to rapidly identify IT assets (servers, desktops, laptops, etc.) holding sensitive data (such as credit card numbers, social security numbers, patient health information, and other personally identifiable information) in violation of legally mandated regulations, industry standards, and corporate policies. Further, they allow an organization to quickly remediate any identified violations and return the network to a compliant state. With the ability to search memory and hard drives at the disk level, EnCase Cybersecurity can target and locate sensitive data no matter where, or in what manner, it is stored, and even if it has been deleted, resides in unallocated space, or is "in use".

EnCase® Forensic

EnCase Forensic software is the industry leading tool for searching, collecting, preserving and analyzing computer forensic data and authenticating such data in court. EnCase Forensic enables an investigator to conduct the full array of forensic functions on a single machine while preserving the integrity of the evidence for future use in court. Used by investigators and consultants in law enforcement, government agencies, small businesses, consulting firms and corporations, EnCase Forensic software provides a robust way to authenticate, search and recover computer evidence rapidly and thoroughly.

EnCase® Portable

EnCase Portable is a triage and collection solution, delivered on a USB device, that allows forensic professionals and non-experts to quickly and easily triage and collect digital evidence in a forensically sound and court proven manner. It enables personnel not trained in computer forensics to forensically acquire documents, internet history and artifacts, images, and other digital evidence, including entire hard drives by connecting a USB device rather than a laptop. Also, law enforcement, government agencies, law firms and corporate customers can cost effectively, without a laptop, target systems that are not on the network or cannot be transported. EnCase Portable leverages the powerful search and acquisition capabilities of EnCase software.

Tableau™ Hardware

Tableau hardware includes write blockers, forensic duplicators and storage devices. Write blockers and forensic duplicators are used to acquire forensically sound copies of digital storage devices such as hard disks and solid state drives. Users will typically analyze this data with forensic software such as EnCase Forensic. Tableau storage products, used in conjunction with write blockers or forensic duplicators, provide high performance, high availability storage for data acquired and produced during forensic examinations.

Professional Services

Professional services provide various consulting services to our clients, including e-discovery, network security incident response, civil/criminal digital investigation, implementation services, and a software advisory program. In addition, we offer certain packaged services based on the specific needs of our customers, including our government customers.

E-Discovery Services. We offer complete end-to-end e-discovery consulting and project management services, from litigation hold to the production of files for attorney review. Leveraging our industry leading EnCase® eDiscovery solution, our cost effective e-discovery services teams automate operations that other service providers perform manually, and are able to conduct large scale e-discovery search, collection and preservation from a central location, producing fast, accurate results with minimal business disruption.

Incident Response Services. Using EnCase® Cybersecurity, consultants investigate and remediate security breaches in an organization's network infrastructure. Consultants determine which methods of entry were used to break into the system, the extent and duration of the intrusion and exactly what data was compromised. They can also "kill" malware and/or rogue processes. In the event a breach draws the attention of regulatory agencies, results and reports can be processed into a court-approved, forensically sound file format to help an organization provide accurate, defensible evidence and information to regulators.

Implementation Services. We provide implementation and consulting services in connection with the deployment of our EnCase® Enterprise, EnCase eDiscovery, EnCase Cybersecurity and related software. Our implementation typically takes one to two weeks, during which we conduct performance tests to ensure full functionality and integration with existing systems in the organization and provide on-site training to ensure our customers can maximize the use of the technology.

Guidance Software Advisory Program (GAP). GAP provides a comprehensive review of current policies and procedures, including a gap analysis which identifies risk areas that could impact the customer. Dedicated advisory consultants work with the customer to build and implement a customized plan to help automate procedures and eliminate wasted resources, establish a documented, defensible and repeatable e-discovery workflow, and align procedures with industry best practices.

Cloud Review Services. We provide expertise and project management for single or multiple case reviews for our CaseCentral® cloud based hosting platform. We have industry leading experience in both managing large cases with hundreds of reviewers, as well as managing clients with thousands of cases through data targeting, initial review, production and trial preparation.

Customer Service and Technical Support

Customers typically purchase software maintenance with each new product license. Maintenance generally involves software updates, telephone and e-mail support, on a 24 hours per day, five days per week basis, as well as customer self-service on our website. Customers are typically provided an option to renew their maintenance agreements on an annual basis. Our technical support organization provides product support to our current customers with multi-tiered offerings and includes support availability 24 hours per day, five days per week, in English, and is also available during normal business hours in several other languages, including German and Spanish.

Training

Training educates thousands of students per year in computer forensics principles and the use of our EnCase® software products and methodology. Because of the sensitive nature of digital investigations and the need to conduct digital investigations in a forensically sound manner, our users will typically take one or more of our courses. We provide an array of training courses on topics such as computer forensics, digital investigations, the proper use of our software products and the EnScript® programming language, which teach our customers' IT and data security professionals the basic principles of computer forensics, train them on the basic and advanced capabilities of our software products and teach them to write EnScript programs. We have retained third-party training partners in order to provide training around the world.

We operate two training classrooms in Pasadena, California, two near Washington, D.C., one in Houston, Texas, one near Chicago, Illinois and two near London, England. In addition, through our training staff, our authorized training partners and our OnDemand training program, certain courses are offered at off-site locations throughout North, Central and South America, Europe, Africa, the Middle East and Asia/the Pacific Rim (as permitted by U.S. Export Regulations). In 2012, we conducted training classes in 41 different countries. In addition to offering courses in English, we have begun to localize our courses by converting the course content and manuals into other languages, and delivering the courses in those languages. To date, our training courses have been taught in German, Spanish, Korean, Romanian, Polish, Japanese, Hebrew, French, Arabic and Mandarin Chinese. We also offer online-training courses, called OnDemand training, that are available worldwide.

Many of our courses are eligible for credit from a variety of organizations, including The State Bar of California, the International Information Systems Security Consortium, Inc., the National Association of State Boards of Accountancy, the Association of Certified Fraud Examiners, the High Tech Crime Network, the Texas Commission on Law Enforcement and the California Commission on Peace Officer Standards and Training. We are continually expanding our training offerings and we believe that we are the leading corporate provider of this type of digital investigation training.

EnCE ® Certification

The EnCE program certifies the competency of public and private sector employees in the best practices of computer forensic investigations and in the proper use of EnCase® while conducting such investigations. In order to obtain EnCE certification, professionals must have at least 12 months of computer forensic experience or attended 64 hours of authorized computer forensic training and pass a dual-phase EnCE examination. EnCE certification acknowledges that professionals have mastered computer forensic investigation methodology as well as the use of EnCase during complex computer examinations. Our EnCE program is recognized by both the law enforcement and corporate communities as a symbol of in-depth computer forensics knowledge, and EnCE certification illustrates that an investigator is a skilled computer examiner. As of December 31, 2012, more than 4,000 people worldwide had achieved EnCE certification.

EnCEP ® Certification

EnCase® Certified eDiscovery Practitioner (EnCEP®) program certifies private and public sector professionals in the use of EnCase eDiscovery software, as well as their proficiency in e-discovery planning, project management and best practices spanning legal hold to load file creation. EnCase eDiscovery is the leading e-discovery solution for the search, collection, preservation, and processing of ESI. Earning the EnCEP certification illustrates that a practitioner is skilled in the application of the solution to manage and successfully complete all sizes of e-discovery matters in accordance with the Federal Rules of Civil Procedure.

Sales and Distribution

We currently market our software and services primarily through a direct sales organization complemented by indirect sales channels. Our direct sales force is located throughout the Americas, Europe, the Middle East, Africa and Asia/the Pacific Rim.

Our revenue consists of product, subscription and service and maintenance fees from our customers and distributors. Product revenue represented approximately 43%, 50% and 48% of our total revenue in fiscal years 2012, 2011 and 2010, respectively. Subscription revenue represented approximately 7% of our total revenue in fiscal year 2012 and none in fiscal years 2011 and 2010. Revenue from service and maintenance represented approximately 50%, 50% and 52% of our total revenue in fiscal years 2012, 2011 and 2010, respectively.

Sales to customers outside the United States totaled $24.4 million, representing 19% of our total revenue in fiscal year 2012. For a geographic breakdown of our revenue and property and equipment, see Note 18 to our Consolidated Financial Statements included in this Annual Report on Form 10-K.

Marketing

We use a mix of market research, analyst updates, seminars, direct mail, print advertising, trade shows, speaking engagements, public relations, customer newsletters and web marketing in order to achieve our marketing goals. Our marketing department also produces collateral material for distribution to potential customers including presentation materials, white papers, brochures, magazines and fact sheets. We also host user events for our customers and provide support to our channel partners with a variety of programs, training and product marketing support materials.

In addition to our regional and vertical marketing initiatives, we also host the industry's largest conference dedicated solely to the subject of digital investigations. The Computer and Enterprise Investigations Conference ("CEIC®") serves as our annual user conference and draws attendees from global law enforcement, government agencies, corporations, law firms and judges. This event also draws industry analysts and experts and provides a valuable forum for users to connect, share information and learn about important topics in the industry. It enables us to efficiently connect with a broad range of customers, communicate our whole product offerings (products, services, training, etc.) and launch new products in a captive environment while simultaneously driving additional add-on sales to customers who have implemented one or more of the core platform products.

Customers

Our customers include government agencies and global corporations in a wide variety of industries such as financial and insurance services, technology, defense contracting, telecom, pharmaceutical, healthcare, manufacturing and retail. Our EnCase® Enterprise customer base currently includes more than half of the Fortune 100 and more than 200 of the Fortune 500 and many federal and international government agencies, and we have deployed our EnCase Forensic software to more than 1,000 government and law enforcement agencies and other customers worldwide. Our EnCase Enterprise customers are primarily in North America, and also extend to Europe, Africa, the Middle East (as permitted by U.S. Export Regulations) and Asia/the Pacific Rim. Sales to customers outside of the United States accounted for 19%, 19% and 15% of our revenues for the fiscal years ended December 31, 2012, 2011 and 2010, respectively. The majority of our EnCase Forensic customers are national and local government agencies, law enforcement agencies, consultants and other organizations of the United States and foreign governments.

Research and Development

Our research and development effort is focused on the advancement of our core products and the development of new products, as well as the quality assurance of both core and new products. We conduct research on existing or new computer hardware or software technology to develop solutions for our law enforcement, government or corporate markets. We conduct research on file system support, search and analysis algorithms, hardware engineering and design, industry standards, technology integrations and user productivity and performance features. Our research and development efforts are often aimed at creating new standards in our industry and streamlining current processes. Under our customer contracts, we typically obtain the rights to use any improvements to our technology developed or discovered on a particular customer deployment on other customer deployments. Our research and development expenses were $24.5 million, $18.9 million, and $17.0 million in 2012, 2011 and 2010, respectively.

Competition

The market for our products is highly competitive, quickly evolving, and subject to rapidly changing technology. The market for software for electronic discovery is highly fragmented, and our EnCase® eDiscovery product competes against enterprise search and content management vendors such as HP, Autonomy and EMC, as well as electronic discovery point solutions from smaller, privately held companies. More generally, our EnCase® eDiscovery software competes against providers of outsourced electronic discovery services, such as FTI or Navigant. In the IT Security market, we believe our EnCase® Cybersecurity product provides certain unique capabilities, but we nevertheless compete for budget dollars against established IT security vendors such as Checkpoint and McAfee. In the computer forensics market we compete against a series of smaller, privately held companies, such as AccessData, X-ways Software and Paraben. Additionally, in the broader enterprise market we compete with forensic vendors including Access Data and security software solution vendors including McAfee and Symantec. With respect to our e-discovery solution, we compete against e-discovery point solutions such as StoredIQ, Clearwell and Nuix, information and content management vendors including HP, Autonomy (which acquired Iron Mountain's Stratify and Mimosa's assets), EMC (which acquired Kazeon), as well as other privately held companies. Our e-discovery solutions also compete against outsourced e-discovery alternatives whether e-discovery service providers or consulting companies, such as the Big 4 consulting/accounting firms and others, that offer services for traditional digital investigations and e-discovery in place of implementing a packaged software solution.

We currently compete on the basis of the breadth and depth of our products' functionality as well as on the basis of price. Additionally, we compete on the basis of certain other factors, including forensic technology, forensic soundness and acceptance in court, time required to complete an investigation, ability to scale across large networks and expertise of consulting personnel. We believe that we currently compete favorably with respect to these factors. For a further discussion of our competition, see "Risk Factors—We face direct and indirect competition from other software companies, as well as other companies that provide training, consulting, and certification services in computer forensics, which could limit our growth and market share" in Item 1A.

Seasonality

Our business is influenced by seasonal factors, largely due to customer buying patterns. In recent years, we have generally had weaker demand for our software products and services in the first and second quarters of the year and stronger demand in the third quarter due to the federal government fiscal year end and in the fourth quarter due to commercial or corporate fiscal year end. Our consulting and education services have sometimes been negatively impacted in the third and fourth quarters of the year due to the summer and holiday seasons, which result in fewer billable hours for our consultants and fewer education classes.

Intellectual Property and Proprietary Rights

Our intellectual property rights are important to our business. We rely on a combination of copyrights, trade secrets, trademarks, and patents, as well as confidentiality procedures and contractual provisions to protect our proprietary technology, processes and intellectual property. We currently have 19 issued patents and 14 patent applications pending in the United States, the European Union or under the Patent Cooperation Treaty (often more than one pending application relates to a single invention). We own registered copyrights on various versions of our products and associated instructional documentation. We have registered trademarks or trademarks in the United States and in certain other jurisdictions, including the mark EnCase® in the United States, Japan and the European Union, and in the marks EnCE®, EnScript®, FastBloc®, CEIC®, EnCEP® and logo Guidance Software® in the United States.

Others may develop products that are similar to our technology. We generally enter into confidentiality and other written agreements with our employees and partners, and through these and other written agreements, we attempt to control access to and distribution of our software, documentation and other proprietary technology and other information. Despite our efforts to protect our proprietary rights, third parties may, in an unauthorized manner, attempt to use, copy or otherwise obtain and market or distribute our intellectual property rights or technology or otherwise develop a product with the same functionality as our software. Policing unauthorized use of our software and intellectual property rights is difficult, and nearly impossible on a worldwide basis. Therefore, we cannot be certain that the steps we have taken or will take in the future will prevent misappropriation of our technology or intellectual property rights, particularly in foreign countries where we do business or where our software is sold or used, where the laws may not protect proprietary rights as fully as do the laws of the United States or where the enforcement of such laws is not common or effective.

Substantial litigation regarding intellectual property rights exists in the software industry. From time to time, in the ordinary course of business, we may be subject to, or initiate, claims relating to our intellectual property rights or those of others, and we expect that third parties may commence legal proceedings or otherwise assert intellectual property claims against us in the future, particularly as we expand the complexity and scope of our business, the number of similar products increases and the functionality of these products further overlap. These claims and any resulting litigation could subject us to significant liability for damages. In addition, even if we prevail, litigation could be time-consuming and expensive to defend and could affect our business materially and adversely. Any claims or litigation from third parties may also limit our ability to use various business processes, software and hardware, other systems, technologies or intellectual property subject to these claims or litigation, unless we enter into license agreements with the third parties. However, these agreements may be unavailable on commercially reasonable terms, or not available at all. For a discussion of intellectual property claims that have recently been asserted against us, see “Item 3. Legal Proceedings” and “Note 17 — Contingencies” in the notes to the consolidated financial statements included in Item 8.

In addition to our proprietary technology, we rely on technology that we license from third parties. During 2012, we agreed with Oracle to extend a license for a document viewer technology that we plan to incorporate in the next version of our products until November 2015. In addition, Oracle may terminate this license agreement prior to the expiration of its term if we fail to make timely payments or fail to comply with any other material term of the license. (See Risk Factors: “Our success depends in part upon our ability to develop new products and enhance our existing products. Failure to successfully introduce new or enhanced products to the market may adversely affect our business, financial condition and results of operations” in Item 1A of this Annual Report on Form 10-K).

Employees

As of December 31, 2012, we employed approximately 475 full-time employees, including approximately 125 in research and development, 130 in selling and marketing and 110 in services (including professional services and training). We have never had any work stoppage and none of our employees are represented by a labor organization or are party to any collective bargaining arrangements. We consider our employee relations to be good.

Item 1A. Risk Factors

You should consider each of the following factors as well as the other information in this Annual Report in evaluating our business and our prospects. The risks and uncertainties are described below are not the only ones we face. Additional risks and uncertainties not presently known to us or that we currently consider immaterial may also impair our business operations. If any of the following risks actually occurs, our business and financial results could be harmed. In that case, the trading price of our common stock could decline. You should also refer to the other information set forth in this Annual Report, including our financial statements and the related notes.

Global market and economic conditions may adversely affect our business, results of operation and financial condition.

We are subject to the risks arising from adverse changes in global economic conditions, especially those in the US, Europe and the Asia-Pacific region. Economic conditions in the United States and worldwide macroeconomic conditions remained challenging during much of 2010, 2011 and 2012. If this economic weakness continues or worsens, customers may delay, reduce or forego technology purchases, both directly and through our channel partners and resellers. This could result in reductions in sales of our products, longer sales cycles, slower adoption of new technologies and increased price competition. Further, deteriorating economic conditions could adversely affect our customers and their ability to pay amounts owed to us. Any of these events would likely harm our business, results of operations and financial condition.

Our operating results may fluctuate from period to period and within each period, which makes our operating results difficult to predict and could cause our revenues, expenses and profitability to fall short of expectations during certain periods.

Our operating results may fluctuate from period to period or within certain periods as a result of a number of factors, many of which are outside of our control. You should not rely on our past results as an indication of future performance, as our operating results in the future may fall below expectations, expenses could increase and revenues could decrease. Each of the risks described in this section, as well as other factors, may affect our operating results. For example, our quarterly revenues and operating results may fluctuate as a result of a variety of factors, including, but not limited to, our lengthy sales cycle, the proportion of revenues attributable to license fees versus services and maintenance revenue, changes in the level of fixed operating expenses, demand for our products and services, the introduction of new products and product enhancements or upgrades by us or our competitors, changes in customer budgets and capital expenditure plans, competitive conditions in the industry and general economic conditions. In addition, many customers make major software acquisitions near the end of their fiscal years, which tends to cause our revenues to be higher in the third and fourth calendar quarters which coincide with the fiscal year ends of many government agencies and corporations, and lower in the first and second calendar quarters. In addition, many customers tend to make software acquisitions or purchases near the end of a particular quarter, which tends to make our revenues for a particular period unpredictable for a significant portion of the period in question until software purchase decisions have been made. Since our EnCase® Enterprise product sales are generally large scale license agreements, a short delay in just one of these software sales from one quarter into a subsequent quarter or a loss of one of these potential sales could cause us to deliver results for a quarter that are below projections of securities analysts that follow our results. There can be no assurance that we will be able to successfully address these risks, and we may not be profitable in any future period.

If the corporate market for digital investigation software were not to develop, we would not be able to maintain our growth, and our revenues and results of operations would be adversely affected.

The market for digital investigation software is new and is being developed largely through our efforts. Our growth is dependent upon, among other things, the size and pace at which the market for such software develops. Our ability to achieve our anticipated growth rate may be impacted by a contraction in the global economy. If the market for such digital investigation software decreases, remains constant, or grows more slowly than we anticipate, we will not be able to maintain historical growth rates. Continued growth in the demand for our products is uncertain because of, among other things:

- customers and potential customers may decide to use traditional methods of conducting enterprise investigations, such as reliance on in-house professionals or outside consultants to conduct manual investigations;
- customers may experience technical difficulty in utilizing digital investigation software or otherwise not achieve their expected return on their investment in such software; and
- marketing efforts and publicity related to digital investigation software may not be successful.

Even if digital investigation software gains wide market acceptance, our software may not adequately address market requirements and may not continue to gain market acceptance. If digital investigation software generally, or our software specifically, do not gain wide market acceptance, we may not be able to maintain our recent rate of growth and our revenues and results of operations would be adversely affected.

We have grown rapidly, and if we are not able to effectively manage and support our growth or retain and attract highly skilled employees, our business strategy might not succeed.

In the past we have grown rapidly and we will need to continue to grow in all areas of our operations to execute our business strategy. Managing and sustaining our growth will place significant demands on management as well as on our administrative, operational, technical and financial systems and controls and other resources. We may not be able to expand our product offerings, our customer base and markets, or implement other features of our business strategy at the rate or to the extent presently planned. In addition, our traditionally high level of customer service may suffer as we grow, which could cause our software sales to suffer. If we are unable to successfully manage or support our future growth, we may not be able to maximize revenues or profitability.

In addition, in order to be able to effectively execute our growth plan, we must attract and retain highly qualified personnel. We may need to hire additional personnel in virtually all operational areas, but primarily in selling and marketing, research and development, professional services, training and customer service. Competition in our industry for experienced and qualified personnel in these areas is extremely intense, especially for software developers with high levels of experience in designing and developing software products and sophisticated technical sales people experienced in selling our complex type of software products and selling into government agencies. In order to expand sales of EnCase® Enterprise, we may need to continue to hire highly qualified commissioned sales personnel to directly target potential EnCase Enterprise customers. These new commissioned sales personnel require several quarters of training and experience before being able to effectively market EnCase Enterprise, and, as a result of these hires, our sales and marketing expense may increase at a greater rate than our revenue, at least in the short term. The expense of hiring and training these commissioned sales personnel may never generate a corresponding increase in revenue. We may not be successful in attracting and retaining the necessary qualified personnel that our growth plan requires. In the past we have experienced, and we expect to continue to experience in the future, difficulty in hiring and retaining highly skilled employees with appropriate qualifications. Many of the companies with which we compete for experienced personnel have greater resources than we have. If we fail to attract new personnel or retain and motivate our current personnel, our business and future growth prospects could be severely harmed.

We also believe that a critical contribution to our successful growth prior to the recession in 2009, has been our corporate culture which fosters innovation, teamwork and excellence. As our organization grows and we are required to implement more complex organizational structures and institutional programs, we may find it difficult to maintain the beneficial aspects of our corporate culture, which could negatively affect our ability to attract and retain qualified and experienced personnel and therefore our future success in continuing to maintain our rapid growth.

The failure of the legal community to adopt our eDiscovery solution could negatively affect future sales of EnCase® Enterprise, which could have a material adverse effect on our results of operations.

We expect to derive a significant amount of sales of EnCase® Enterprise from continuing demand for our EnCase® eDiscovery solution. However, widespread adoption of e-discovery best practices will require a shift in the way the legal community approaches discovery of electronic documents and other electronically stored data. Currently, most large scale electronic discovery projects are conducted by outsourced service providers that manually retrieve documents from each computer subject to review. These service providers have longstanding and entrenched relationships with the corporations that are subject to large-scale discovery inquiries or security breaches and the large law firms that are typically retained in connection with such discovery projects. Corporations and law firms may continue to prefer to use service providers because of these ongoing established relationships, and because the service providers are widely known and accepted within the legal community, and may resist adoption of our EnCase eDiscovery solution. Moreover, the expense of relying on an outsourced service provider may frequently be covered by the corporation's insurance policy that is otherwise covering the expense of the litigation, including complying with requests for discovery, while implementation of EnCase Enterprise and our EnCase eDiscovery would require a significant unreimbursed capital expenditure by the corporation. The failure of corporations and law firms to adopt our EnCase eDiscovery solution for e-discovery could have a material adverse effect on our sales and results of operations.

Courts could reject the use of our products, which would harm our reputation and negatively affect future sales of our products and services.

Our software products and services are often used in connection with legal investigations, civil litigation and criminal prosecutions. The admissibility of results generated by our products as evidence in civil and criminal trials is a key component of our customer value proposition. Evidence and the manner used to collect evidence is regularly the subject of challenges in legal investigations and litigation, and our products or personnel may be the direct or indirect subject of such legal challenges. Persons involved in litigation may, for example, challenge the reliability of our products, the admissibility of evidence generated, discovered or collected using our products, and/or the expertise, credibility or reliability of our personnel. Other unpredictable legal challenges may be brought that could reflect upon the reputation of our products or personnel. To date, courts that have addressed challenges to our products or services have ruled against such challenges. If in the future a court were to find that our products are not reliable or that persons representing us or users of our product are not credible, reliable or lack the expertise necessary to serve as a witness or to authenticate evidence, or that our training and certification process does not adequately prepare individuals to conduct competent digital investigations, this could have a material adverse impact on our revenues and results of operations.

We are dependent on our management and research and development teams, and the loss of any key member of either of these teams may prevent us from executing our business strategy.

Our future success depends in a large part upon the continued services of our executive officers and other key personnel. In particular, Shawn McCreight, our founder, Chairman and Chief Technology Officer, has been significantly responsible for the development of our products. In addition, Victor Limongelli, our President and Chief Executive Officer, is responsible for a number of our significant strategic initiatives. We are also substantially dependent on the continued services of our existing research and development personnel. The loss of one or more of our key employees, and in particular our research and development personnel, could seriously harm our business development, culture and strategic direction. We do not maintain key person life insurance policies on any of our executives. Any key person life insurance policy we maintain now or in the future would not be sufficient to cover the loss of any of our key personnel and any such loss could seriously harm our business and our ability to execute our business strategy. We have agreements that provide severance benefits to each of our Named Executive Officers. Our failure to retain these key employees could negatively impact our ability to execute our business strategy.

Changes or reforms in the law or regulatory landscape could diminish the need for our solutions, and could have a negative impact on our business.

One factor that drives demand for our products and services is the legal and regulatory framework in which our customers operate. Laws and regulations are subject to drastic changes and these could either help or hurt the demand for our products. Thus, certain changes in the law and regulatory landscape, such as tort law or legislative reforms that limit the scope and size of electronic discovery requests or the admissibility of evidence generated by such requests, as well as court decisions, could significantly harm our business. Changes in domestic and international privacy laws could also affect the demand and acceptance of our products, and such changes could have a material impact on our revenues.

We face direct and indirect competition from other software companies, as well as other companies that provide training, consulting and certification services in computer forensics, which could limit our growth and market share.

The markets for our software products and services are competitive, highly fragmented and subject to rapidly changing technology, shifting customer needs and frequent introductions of new products and services. We expect the intensity of competition to increase in the future as new companies enter our markets, existing competitors develop stronger capabilities and we expand into other markets. Many of our current competitors have longer operating histories, greater name recognition, access to larger customer bases and substantially more extensive resources than we have. They may be able to devote greater resources to the development, promotion and sale of their products than we can to ours, which could allow them to respond more quickly than we can to new technologies and changes in customer needs and achieve wider market acceptance. Because the barriers to entry into software industry segments are generally low, we expect to continue to face competition from new entrants, particularly as we expand into other segments of the software industry.

Several competing companies provide digital investigation software and applications that directly compete or will compete with our products, or offer solutions our products do not address. In addition, if the market for digital investigation software develops as we anticipate, other companies could enter this market through their own software development or through the acquisition of one of our current competitors. If these companies are more successful in providing similar, better or less expensive digital investigation solutions compared to those that we offer, we could experience a decline in customers and revenue. These companies include computer forensic companies, managed security services companies and consulting companies, such as the “Big 4” consulting/accounting firms, many of which have substantially greater resources and customer bases than we do. If our competitors are more successful than we are at generating professional services engagements, our growth rate or revenues may decline.

We also compete with companies or organizations that have developed or are developing and marketing software and services that diminish the need for our solutions or the budget available to our customers to purchase our solutions. These companies include traditional security companies, data storage infrastructure and data archiving companies, information management, records management and internal IT organizations that develop their own solutions.

Computer hackers may damage our products, services and systems, which could cause interruptions in our service and harm to our business, and hackers could gain access to our customers' personal information which could result in the loss of existing clients, negative publicity and legal liability.

Computer hackers often attempt to access information, including personal information for purposes of identity theft and other criminal activity. In particular, due to the nature of our business, the products and services that we offer and the industry in which we operate, we are more likely to be the target of computer hackers who would like to undermine our ability to offer the products and services that we provide to our customers and possibly retaliate for the results or evidence that our products and services generate.

For example, in December 2005, we became aware of a security breach of our electronic records which contained, among other things, credit card information of approximately 5,000 customers. We promptly notified law enforcement authorities as well as each of the customers whose information may have been compromised. We conducted a forensic examination of the incident and took a number of steps to both remediate the underlying cause and strengthen our internal security system, including enhancing our internal information technology security department and redesigning our network architecture.

In early January 2006, the Federal Trade Commission (the "FTC") commenced an inquiry into the December 2005 security breach. In September 2006, we executed a consent decree proposed by the FTC that includes no monetary penalties. The consent decree finds that we failed to implement proper security measures to protect consumers' data, and requires us to provide the FTC with initial and biennial third-party assessments of our IT security for a period of 10 years. Additionally, the consent decree requires us to maintain a comprehensive IT security program, retain documentation of such program and provide notice of the consent decree to our executives and employees for a period of 20 years. The FTC formally approved the consent decree on November 15, 2006 and subsequently issued a press release announcing the investigation and its conclusion. In April 2007, we received formal notice and service of the decree from the FTC, effectively ending the inquiry. In 2007, we timely filed the first compliance report required by the consent decree. In 2009 and 2011, we timely complied with our biennial monitoring and reporting responsibilities required by the consent decree.

Given the incident, any subsequent breach of our security could be especially damaging to our reputation and business and may result in monetary penalties if the FTC were to find that the circumstances that lead to the breach constituted a violation of our obligations under the consent decree.

In addition, from time to time we may be the targets of computer hackers who, among other things, create viruses to sabotage or otherwise attack companies' networks, products and services. For example, there was recently a spread of viruses, or worms, that intentionally deleted anti-virus and firewall software. Our products, networks, websites and systems, may be the target of attacks by hackers. If successful, any of these events could damage our computer systems, force us to incur substantial costs to fix technical problems or result in hackers gaining access to our technical and other proprietary information, which could harm our business and results of operations.

The complexity of accounting regulations and related interpretations and policies, particularly those related to revenue recognition, could materially affect our financial results for a given period.

Although we use standardized sales agreements designed to meet current revenue recognition criteria under accounting principles generally accepted in the United States, we must often negotiate and revise terms and conditions of these standardized agreements, particularly in multi-product license and services transactions and Pay-Per-Use agreements. As our transactions have increased in complexity, particularly with the sale of larger, multi-product licenses, negotiation of mutually acceptable terms and conditions may require us to defer recognition of revenue on such licenses. We believe that we are in compliance with Accounting Standards Codification ("ASC") Software Industry—Revenue Recognition topic (ASC 985-605); however, more complex, multi-product license transactions require additional accounting analysis to account for them accurately. The professional technical guidance available regarding the application of software revenue recognition is very conceptual, and silent to specific implementation matters. As a consequence of this, we have been required to make assumptions and judgments, in certain circumstances, regarding the application of software revenue recognition. Incorrect assumptions or judgments as well as changes in, or clarification to accounting interpretations, could lead to unanticipated changes in our revenue accounting practices and may affect the timing of revenue recognition, which could adversely affect our financial results for any given period. If we discover that we have interpreted and applied revenue recognition rules differently than prescribed by accounting principles generally accepted in the United States, we could be required to devote significant management resources, and incur the expense associated with an audit, restatement or other examination of our financial statements.

Our effective tax rate may fluctuate, which could increase our income tax expense and reduce our net income.

In preparing our quarterly and annual consolidated financial statements, we estimate our income tax liability in each of the foreign and domestic jurisdictions in which we operate by estimating our actual current tax exposure and assessing temporary differences resulting from differing treatment of items for tax and financial statement purposes. Our judgments, assumptions and estimates relative to the current provision for income tax take into account current tax laws and our interpretation of current tax laws. Although we believe our judgments, assumptions and estimates are reasonable, changes in tax laws or our interpretation of tax laws and the resolution of any future tax audits could significantly impact the amounts provided for income taxes in our consolidated financial statements.

We calculate our current and deferred tax provisions based on estimates and assumptions that could differ from the actual results reflected in income tax returns filed during the subsequent year. Adjustments based on filed returns are generally recorded in the period when the tax returns are filed and the global tax implications are known and could significantly impact the amounts provided for income taxes.

Due to uncertainty in the application and interpretation of applicable state sales tax laws, we may be exposed to additional sales tax liability.

The application and interpretation of various state sales tax laws to certain of our products and services is uncertain. Accordingly, we may be exposed to additional sales tax liability to the extent various state jurisdictions determine that certain of our products and services are subject to their state's sales tax. During the three months ended March 31, 2011 we recorded a liability of approximately $1.3 million reflecting our best estimate of our potential sales tax liability and associated interest and penalties thereon. While we believe all of our estimates and assumptions are reasonable and will be sustained upon audit, the actual liabilities may be more or less than such estimates, and if so, such liability may negatively impact our financial condition.

Our operating results and business would be seriously impaired if our revenues from our EnCase® Enterprise product offerings, which include EnCase® eDiscovery and EnCase® Cybersecurity, were to decline.

Historically, we have derived substantially all of our license revenues from sales of our EnCase® Forensic and EnCase Enterprise product offerings. Although we have introduced new software modules, we expect that our EnCase Enterprise product offerings will account for the largest portion of our software product revenues for the foreseeable future. Although we have no reason to believe that sales of EnCase Forensic will decline in future periods, we believe that the degree of penetration for our EnCase Forensic product in the law enforcement market makes it unlikely that revenue from sales of EnCase Forensic will contribute dramatically to future revenue growth. For this reason, we are dependent on increased sales of EnCase Enterprise and related products to drive future growth.

As a result, if for any reason revenue from our EnCase Enterprise product offerings declines or does not increase as rapidly as we anticipate, our operating results and our prospects for growth will be significantly impaired. Further, if these products fail to meet the needs of our existing and target customers, or if they do not compare favorably in price and performance to competing products, our business will be adversely affected.

We may be limited in our ability to utilize indirect sales channels, such as value-added resellers, corporate resellers, professional services firms and other third-party distributors for the sale and distribution of our products, which may limit our ability to expand our customer base and our revenues.

We may be limited in our ability to market and distribute our products through value-added resellers, corporate resellers, professional services firms and other third-party distributors, which we collectively refer to as third-party resellers, due to various factors. Due to the complex nature of our products, sales professionals generally require a significant amount of time and effort to become sufficiently familiar with our products in order to be able to market them effectively, which makes our products unattractive to third-party resellers. In addition, our competitors include professional services organizations, such as accounting, consulting and law firms, that would otherwise serve as a natural distribution channel for our products and related services.

Moreover, there is significant competition in our industry for qualified third-party resellers. Even if we were to succeed in attracting qualified and capable third-party resellers, agreements with such third-party resellers are generally renewable annually, are not exclusive and contain no minimum purchase commitments. Such agreements may be terminated by either party: (a) for U.S. and Canadian resellers, with 30 days written notice after the initial one-year period; and (b) for non-U.S. or Canadian resellers, within 30 days after the initial six-month period of the agreement, and with 30 days notice after the initial one-year period. If we are not able to recruit new qualified third-party resellers, our sales growth may be constrained and our results of operations would suffer.

Our intellectual property rights are valuable, and if we are unable to protect our proprietary technologies and defend infringement claims, we could lose our competitive advantage and our business could be adversely affected.

Our success depends in part on our ability to protect our proprietary products and services and to defend against infringement claims. If we are unable to do so, our business and financial results may be adversely affected. To protect our proprietary technology, we rely upon a combination of copyright, patent, trademark and trade secret law, confidentiality restrictions in contracts with employees, customers and other third parties, software security measures, and registered copyrights, trademarks and patents. If we fail to protect our intellectual property rights adequately, our competitors may gain access to our technology, and our business may be harmed. Any of our patents, trademarks, copyrights or other intellectual property rights may be challenged by others or invalidated through administrative process or litigation proceedings. In addition, we may be unable to obtain patent, copyright or trademark protection on products that we spend significant time and expense to develop in the future. Despite our efforts to protect our proprietary technology, unauthorized persons may be able to copy, reverse engineer or otherwise use some of our proprietary technology. Furthermore, existing patent and copyright laws may afford only limited protection, and the laws of certain countries in which we operate do not protect proprietary technology as well as established law in the United States. For these reasons, we may have difficulty protecting our proprietary technology against unauthorized copying or use. If any of these events happen, there could be a material adverse effect on the value of our proprietary technology and on our business and financial results. In addition, litigation may be necessary to protect our proprietary technology. This type of litigation is often costly and time-consuming, with no assurance of success.

Claims that we misuse the intellectual property of others could subject us to significant legal liability and disrupt our business, which could have a material adverse effect on our financial condition and results of operations.

Because of the nature of our business, we may become subject to material claims of infringement by competitors and other third parties with respect to our current or future software applications, trademarks or other proprietary rights. The legal framework for software patents is rapidly evolving and we expect that software developers will increasingly be subject to infringement claims as the number of software applications and competitors in our industry segment grows. In certain circumstances, the owners of proprietary software could make copyright and/or patent infringement claims against us in connection with such activity. Any such claims, whether meritorious or not, could be time consuming and difficult to defend against, result in costly litigation, cause shipment delays or require us to enter into royalty or licensing agreements with third parties, which may not be available on terms that we deem acceptable, if at all. Any of these claims could disrupt our business, make it difficult to add or retain important features in our products and have a material adverse effect on our financial condition and results of operations. For a discussion of intellectual property claims that have recently been asserted against us, see “Item 3. Legal Proceedings” and “Note 17-Contingencies” in the notes to the consolidated financial statements included in Item 8 of this Annual Report on Form 10-K.

If we are unable to continue to obtain government licenses, approvals or authorizations regarding the export of our products abroad, or if current or future export laws limit or otherwise restrict our business, we could be prohibited from shipping our products to certain countries, which could negatively impact our business, financial condition and results of operations.

We must comply with United States laws regulating the export of our products to other countries. Our products contain encryption and decryption technologies that require us to obtain certain licenses from the United States government in order to export certain of our products abroad. In addition, we are required to obtain licenses from foreign governments in order to import our products into these countries. We cannot guarantee that we will be successful in obtaining such licenses, approvals and other authorizations required from applicable governmental authorities to export our products. The export regimes and the governing policies applicable to our business are subject to change, and we cannot assure you that such export approvals or authorizations will be available to us or for our products in the future. Our failure to receive any required export license, approval or authorization would hinder our ability to sell our products and could negatively impact our business, financial condition and results of operations.

Our software applications may be perceived as, or determined by the courts to be, a violation of privacy rights. Any such perception or determination could adversely affect our revenues and results of operations.

Because of the nature of digital investigations, our potential customers and purchasers of our products or the public in general may perceive that use of our products for these investigations result in violations of individual privacy rights. In addition, certain courts, legislative and regulatory authorities could determine that the use of our software solutions or similar products are a violation of privacy rights, particularly in jurisdictions outside of the United States. Any such determination or perception by potential customers, the general public, government entities or the judicial system could harm our reputation and adversely affect the sales of our products and our results of operations.

Our business depends, in part, on sales to governments and governmental entities and significant changes in the contracting or fiscal policies of governments and governmental entities could have a material adverse effect on our business.

We derive a portion of our revenues from contracts with federal, state, local and foreign governments and government agencies, and we believe that the success and growth of our business will continue to depend on our successful procurement of government contracts. Accordingly, changes in government contracting policies or government budgetary constraints could directly affect our business, financial condition and results of operations. Among the factors that could adversely affect our business, financial condition or results of operations are:

- changes in fiscal policies or decreases in available government funding;
- changes in government programs or applicable requirements;
- the adoption of new laws or regulations or changes to existing laws or regulations;
- changes in political or social attitudes with respect to security issues, computer crimes, discovery of computer files and digital investigations;
- potential delays or changes in the government appropriations process; and
- delays in the payment of our invoices by government payment offices.

These and other factors could cause governments and governmental agencies to refrain from purchasing the products and services that we offer in the future, the result of which could have an adverse effect on our business, financial condition and results of operations. In addition, many of our government customers are subject to stringent budgetary constraints. The award of additional contracts from government agencies could be adversely affected by spending reductions or budget cutbacks at government agencies that currently use or are likely to utilize our products and services.

Because we offer our EnScript® programming language for customization of and the creation of add-ons for EnCase®, customers or third-party programmers may be able to develop products that compete with our products or reduce the marketability or value of our products.

We have developed many of our major products, including EnCase® eDiscovery and EnCase® Information Assurance, to function as applications running on the EnCase® Enterprise platform. We created these applications using the EnScript programming language. In order to enhance the attractiveness of EnCase to potential customers and position EnCase as a standard software for digital investigations, we have made available without charge the EnScript programming language, which permits users of EnCase to develop customized add-on features for their own or others' use, and we have trained our customers on how to write add-on programs using the EnScript programming language, which is similar to Java or C++. As part of this strategy, we have encouraged the development of an active community of EnScript programmers similar to those which have emerged for other software products. While we believe widespread use of our EnScript programming language will ultimately create demand for our products, customers in the past have developed, and may in the future develop, software for use with EnCase using the EnScript programming language, rather than purchasing certain of our product offerings. Losses of sales to potential customers could have a material adverse impact on our revenues and results of operations.

Our success depends in part upon our ability to develop new products and enhance our existing products. Failure to successfully introduce new or enhanced products to the market may adversely affect our business, financial condition and results of operations.

Our future success depends in part on our ability to develop enhancements to our existing products and to introduce new products that keep pace with rapid technological developments and changes in customers' needs. Although our products are designed to operate on a variety of network hardware and software platforms, we must continue to modify and enhance our products to keep pace with changes in network platforms, operating systems, software technology and changing customer demands. We may not be successful in developing and documenting these modifications and enhancements or in bringing them to market in a timely manner. Any failure of our products to operate effectively with future network platforms and technologies could reduce the demand for our products and result in customer dissatisfaction. In addition, our products incorporate document viewer technology that we license from Oracle USA, Inc. Our license agreement with Oracle expires in November 2015. We may be unable to replace this technology if Oracle terminates this license agreement or it expires, or if the Oracle technology becomes obsolete or incompatible with our products.

Furthermore, any new products that we develop may not be released in a timely manner and may not achieve the market acceptance necessary to generate significant sales revenues. As a result, we may expend significant time and expense towards research and development for new or enhanced products, which may not gain market acceptance or generate sufficient sales to offset the costs of research and development. If we are unable to successfully develop new products or enhance and improve our existing products, or if we fail to position or price our products to meet market demand, our business, financial condition and results of operations will be adversely affected.

Errors in our products could adversely affect our reputation, result in significant costs to us, impair our ability to market our products and expose us to legal liability, any of which may adversely affect our operating results.

Products as complex as ours can contain undetected errors or failures. Despite extensive testing by us and by our customers, we have in the past discovered errors in our software applications and will likely continue to do so in the future. As a result of past discovered errors, we experienced delays and lost revenues while we corrected the problems in those software applications. In addition, customers in the past have brought to our attention “bugs” in our software exposed by the customers’ unique operating environments. Although we have been able to fix these software bugs in the past, we may not always be able to do so in the future. In addition, our products may also be subject to intentional attacks by viruses that seek to take advantage of these bugs, errors or other weaknesses. Any of these events may result in the loss of, or delay in, market acceptance of our products and services, which would seriously harm our sales, financial condition and results of operations.

Furthermore, we believe that our reputation and name recognition are critical factors in our ability to compete and generate additional sales of our products and services. Promotion and enhancement of our brand name will depend largely on our success in continuing to provide effective software applications and services. The occurrence of errors in our software applications or the detection of bugs by our customers may damage our reputation in the market as well as our relationships with existing customers, which may result in our inability to attract or retain customers.

In addition, because our products are used in security and forensic functions that are often critical to our customers, the licensing and support of our products makes us potentially subject to product liability claims. Any product liability insurance we carry may not be sufficient to cover our losses resulting from any such product liability claims. The successful assertion of one or more large product liability claims against us could have a material adverse effect on our financial condition.

Incorrect or improper use of our products, our failure to properly train customers on how to utilize our software products or our failure to properly provide consulting and implementation services could result in negative publicity and legal liability.

Our products are complex and are deployed in a wide variety of network environments. The proper use of our software requires the end user to undergo extensive training and, if our software products are not used correctly or as intended, inaccurate results may be produced. Our customers or our professional services personnel may incorrectly implement or use our products. Our products may also be intentionally misused or abused by customers or non-customer third parties who obtain access and use of our products. Because our customers rely on our product and service offerings to manage a wide range of sensitive investigations and security functions, the incorrect or improper use of our products, our failure to properly train customers on how to efficiently and effectively use our products or our failure to properly provide consulting and implementation services to our customers may result in negative publicity or legal claims against us.

We cannot predict our future capital needs and we may be unable to obtain additional financing to develop new products, enhance existing products, offer additional services or fund strategic acquisitions, the failure of which could have a material adverse effect on our business, financial condition and results of operations.

We may need to raise additional funds in the future in order to develop new products, enhance existing products, offer additional services or make strategic acquisitions of complementary businesses, technologies, products or services. Any required additional financing may not be available on terms acceptable to us, or at all. If we raise additional funds by issuing equity securities, you will experience dilution of your ownership interest, which could be significant, and the newly-issued securities may have rights senior to those of the holders of our common stock. If we raise additional funds by obtaining loans from third parties, the terms of those financing arrangements may include negative covenants or other restrictions on our business that could impair our operational and financial flexibility and would also require us to incur additional interest expense. If additional financing is not available when required or is not available on acceptable terms, we may be unable to successfully develop or enhance our software products and services through internal research and development or acquisitions in order to take advantage of business opportunities or respond to competitive pressures, which could negatively impact our software products and services offerings and sales revenues, the failure of which could have a material adverse effect on our business, financial condition and results of operations.

Acquisitions that we may undertake in the future involve risks that could adversely affect our business, financial condition and results of operations.

We may pursue strategic acquisitions of businesses, technologies, products or services that we believe complement or expand our existing business, products and services. Acquisitions involve numerous risks, including, but not limited to, the following:

- diversion of management's attention during the acquisition and integration process;
- the possibility that acquisitions will not be completed successfully, or at all, and our potential exposure to termination fees and/or other costs associated therewith;
- the incurrence of substantial legal, accounting, financial advisory and/or other costs;
- costs, delays and difficulties of integrating the acquired company's operations, technologies and personnel into our existing operations and organization;
- adverse impact on earnings as a result of amortizing the acquired company's intangible assets or impairment charges related to write-downs of goodwill related to any acquisition;
- issuance of equity securities to pay for acquisitions, which may be dilutive to existing stockholders;
- potential loss of customers or key employees of acquired companies;
- impact on our financial condition due to the timing of the acquisition or our failure to meet operating or synergy expectations for any acquired business; and
- assumption of unknown liabilities of the acquired company.

Any acquisitions of businesses, technologies, products or services that we may undertake in the future may not generate sufficient revenues or cost-saving synergies necessary to offset the associated costs of the acquisitions or may result in other material adverse effects.

Our international sales and operations are subject to factors that could have an adverse effect on our business, financial condition and results of operations.

We have significant sales and services operations outside the United States, and derive a substantial portion of our revenues from these operations. We also continue to expand and diversify our international operations via a global distribution and reseller channel which will increase our global reach but do so via an indirect sales model. For the years ended December 31, 2012, 2011 and 2010, we derived approximately 19%, 19%, and 15%, respectively, of our revenues from sales of products and services outside the United States.

Our international operations are subject to risks related to the differing legal, political, social and regulatory requirements and economic conditions of many countries, which risks include, but are not limited to:

- difficulties in staffing and managing our international operations;
- the fact that foreign countries may impose additional withholding taxes or otherwise tax our foreign income, impose tariffs or adopt other restrictions on foreign trade or investment, including currency exchange controls;
- the general economic conditions in the countries in which we operate could have an adverse effect on our earnings from operations in those countries;
- the imposition of, or unexpected adverse changes in, foreign laws or regulatory requirements, including those pertaining to export duties and quotas, trade and employment restrictions;
- longer payment cycles for sales in foreign countries and difficulties in collecting accounts receivable;
- US and foreign import and export laws;

- difficulty in monitoring or effectively preventing business practices which may violate US laws including the Foreign Corrupt Practices Act;

- fluctuations in currency exchange rates;

- compliance with multiple, conflicting and changing governmental laws and regulations, including tax, privacy and data protection laws and regulations;

- costs and delays associated with developing software, documentation and training materials in multiple languages; and

- political unrest, war or acts of terrorism occurring in the foreign countries in which we currently operate or intend to operate in the future.

We may not continue to succeed in developing and implementing policies and strategies that will be effective in each location where we currently do business or intend to do business in the future. Furthermore, the occurrence of any of the foregoing factors may have a material adverse effect on our business, financial condition and results of operations.

Insiders control a substantial amount of our outstanding stock, and this may delay or prevent a change of control of our company or adversely affect our stock price.

As of February 15, 2013, our executive officers, directors and affiliated entities together beneficially own approximately 43% of our common stock outstanding, including approximately 39% of our outstanding common stock held by our founder, Shawn McCreight, and his wife. As a result, these stockholders may have control over matters that require approval by our stockholders, including the election of directors and approval of significant corporate transactions. Corporate actions favored by these stockholders might be taken even if other stockholders oppose them. This concentration of ownership might also have the effect of delaying or preventing a change of control that other stockholders may view as beneficial.

Our charter documents and Delaware law may deter potential acquirers of our business and may thus depress our stock price.

Our amended and restated certificate of incorporation and our bylaws contain provisions that could delay or prevent a change of control of our company that our stockholders might consider favorable. In addition, we are governed by the provisions of Section 203 of the Delaware General Corporation Law, which may discourage, delay or prevent certain business combinations with stockholders owning 15% or more of our outstanding voting stock. These and other provisions in our charter documents may make it more difficult for stockholders or potential acquirers to initiate actions that are opposed by the then-current board of directors, including delaying or impeding a merger, tender offer, or proxy contest or other change of control transaction involving our company. Any delay or prevention of a change of control transaction could cause stockholders to lose a substantial premium over the then current market price of their shares.

The trading price of our common stock is volatile.

The trading prices of the securities of technology companies have historically been highly volatile. Accordingly, the trading price of our common stock has been subject to wide fluctuations since our initial public offering in December 2006. Factors that may affect the trading price of our common stock include:

- variations in our financial results;

- announcements of technological innovations, new solutions, pricing models, strategic alliances or significant agreements by us or by our competitors;

- recruitment or departure of key personnel;

- changes in the estimates of our financial results or changes in the recommendations of any securities analysts that elect to follow our common stock; and

- market conditions in our industry, the industries of our customers and the economy as a whole.

In addition, if the market for software or other technology stocks or the stock market in general experiences continued or greater loss of investor confidence, the trading price of our common stock could decline for reasons unrelated to our business or financial results. The trading price of our common stock might also decline in reaction to events that affect other companies in our industry even if these events do not directly affect us.

Future sales of shares by existing stockholders could cause our stock price to decline.

All of our outstanding shares are eligible for sale in the public market, subject in certain cases to volume limitations under Rule 144 of the Securities Act of 1933, as amended. Also, shares subject to outstanding options and rights under our First Amended and Restated 2004 Equity Incentive Plan are eligible for sale in the public market to the extent permitted by the provisions of various vesting agreements and Rules 144 and 701 under the Securities Act. If these shares are sold, or if it is perceived that they will be sold in the public market, the trading price of our common stock could decline.

In addition, our founder, Shawn McCreight, and his wife, continue to hold a substantial number of shares of our common stock. Sales by Mr. McCreight or his wife of a substantial number of shares, or the expectation that such sales may occur, could significantly reduce the market price of our common stock.

If our prior S Corporation election was not properly made and maintained, we would be liable for federal and certain state income taxes.

In October 1998, we elected to be treated for federal income tax purposes as an "S Corporation" under Subchapter S of the Internal Revenue Code. In addition, we elected or were otherwise treated as an S Corporation for certain state tax purposes. As an S Corporation, our earnings were included in the income of our stockholders for federal and certain state income tax purposes. We filed an election to revoke our S Corporation status in December 2006. If our S Corporation election was not properly made and maintained prior to its revocation, we would be liable for federal and certain state income taxes during prior open periods, together with interest thereon and, possibly, penalties. Such taxes and penalties may be material to our operating results.

Disruption in component supplies or a breakdown in the manufacturing supply chain could adversely impact hardware revenues.

Tableau™ brand hardware products typically incorporate hundreds or more components from a wide range of manufacturing sources. In some cases these components are "sole source", so it is possible for a disruption at a single supplier to constrain or entirely halt production of one of more Tableau brand products, perhaps for an extended period.

Additionally, we use offshore contract manufacturing facilities for most of the assembly work related to Tableau brand hardware products. A breakdown in international transportation or political or economic upheaval could negatively impact our ability to manufacture or transport products leading to a loss of hardware product revenue.

Our balance sheet contained intangible assets (net) and goodwill (net) totaling $27.0 million at December 31, 2012 that are subject to impairment review annually, or whenever events or changes in circumstances indicate that the value may not be recoverable, resulting in write-downs or write-offs. Such write-downs or write-offs could adversely impact our future earnings and stock price, our ability to obtain financing and our customer relationships.

At December 31, 2012, we had $14.6 million in indefinite-lived intangible assets and goodwill on our balance sheet. Accounting Standards Codification *Intangibles — Goodwill and Other (ASC 350)* requires that goodwill and indefinite-lived intangible assets be tested for impairment annually, or whenever events or changes in circumstances indicate that the value may not be recoverable. Such testing could result in write-downs or write-offs to our goodwill and indefinite-lived intangible assets. Impairment is measured as the excess of the carrying value of the goodwill or intangible assets over the implied fair value of the underlying asset. Accordingly, we may, from time to time, incur impairment charges, which are recorded as operating expenses when they are incurred and would reduce our net income and adversely affect our operating results in the period in which they are incurred.

As of December 31, 2012, we had $12.4 million of other net intangible assets, consisting of core technology, existing and developed technology, customer relationships and tradenames that we amortize over time. Any material impairment to any of these items could adversely affect our results of operations and could affect the trading price of our common stock in the period in which they are incurred.

Item 1B. Unresolved Staff Comments

None.

Item 2. Properties

Our corporate headquarters is located in Pasadena, California, where we lease approximately 70,000 square feet in two locations. We also lease an additional approximately 78,000 square feet at facilities in: Houston, Texas; New York City, New York; Waukesha, Wisconsin; San Francisco, California; Dulles, Virginia; Chicago, Illinois; and near London, England. We also maintain a small regional facility in Singapore. These leases expire at various points through 2017. In July 2012, we entered into an Office Lease Agreement (the "Lease") to lease approximately 90,000 rentable square feet of an office building located in Pasadena, California. The Lease begins on August 1, 2013 and has an initial term of ten years and ten months. The Lease will allow the Company to consolidate its Pasadena operations into a single location.

Item 3. Legal Proceedings

On May 20, 2011, MyKey Technology Inc. ("MyKey") filed a complaint against us and certain other parties for patent infringement in the United States District Court for the District of Delaware. With respect to the Company, the complaint alleges that certain of our data acquisition forensic hardware products that we acquired as a result of our acquisition of certain assets of Tableau, LLC, ("Tableau") infringe three of MyKey's patents relating to write blocking, duplication and data removal technologies, respectively. The complaint seeks a declaration of infringement, a finding of willful infringement, compensatory damages, treble damages, injunctive relief, interest, expenses, costs and attorneys' fees.

On July 22, 2011, MyKey also filed a complaint with the United States International Trade Commission (the "ITC"), alleging infringement by the Company and certain other parties of the three patents discussed in the preceding paragraph and requesting that the ITC commence an investigation pursuant to Section 337 of the Tariff Act of 1930. The complaint sought injunctive relief barring the Company from the importation of products that allegedly infringed the three patents of MyKey. On August 24, 2011, the ITC commenced an investigation of the Company and certain other parties related to the complaint by MyKey. On August 31, 2011 the proceeding in the District Court was stayed pending the resolution of the ITC matter. On August 1, 2012, MyKey amended its ITC complaint to remove allegations that its duplication patent had been infringed by the Company and to reduce the number of claims it alleges the Company has infringed related to MyKey's data removal patent. In August 2012, the parties completed a trial on the remaining patent claims at issue.

On December 28, 2012, the ITC released a final determination and Order holding that no violation of Section 337 of the Tariff Act of 1930 occurred as a result of the Company's importation into the United States and sale of the products at issue. This Order effectively ends the ITC proceeding. On February 20, 2013, the U.S. District Court of Delaware lifted the stay of the proceedings in the MyKey matter.

We intend to defend the MyKey matter vigorously and, at this time, are unable to estimate what, if any, liability we may have in connection with these matters. We are unable to estimate a range of reasonably possible losses due to various reasons, including, among others, that (1) certain of the proceedings are at an early stage, (2) there is uncertainty as to the outcome of pending appeals, motions, or settlements, (3) there are significant factual issues to be resolved, (4) there are unresolved negotiations with certain indemnitors or indemnitees of the Company, related to the actions, and (5) we have meritorious defenses that we intend to assert.

On March 19, 2012, Lone Star Document Management, LLC ("Lone Star") filed a complaint against CaseCentral in the United States District Court for the Eastern District of Texas. The complaint alleges that certain SaaS applications of CaseCentral, which were acquired by us as a result of our acquisition of CaseCentral, infringe one of Lone Star's patents relating to systems for proofing and reviewing multiple versions of a document simultaneously and notes or annotations made regarding that document. The complaint seeks a permanent injunction, compensatory damages, interest, costs and attorneys' fees. On September 19, 2012, the Company and Lone Star entered into a settlement and license agreement related to this matter, pursuant to which Lone Star forever and unconditionally agreed to a covenant not to sue the Company, released the Company from all claims, and granted the Company a royalty-free perpetual license to the patent. The settlement costs and the Company's legal costs related to the defense of the Lone Star matter were immaterial to the Company and were fully indemnified by CaseCentral in accordance with the merger agreement by which the Company acquired CaseCentral.

From time to time, we may become involved in various other lawsuits and legal proceedings that arise in the ordinary course of business. Litigation is subject to inherent uncertainties, and an adverse result in these or other matters may arise from time to time that may harm our business. We are not currently aware of any such other legal proceedings or claims that are likely to have a material impact on our business.

Item 4. Mine Safety Disclosure

(not applicable)

PART II

Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

Our common stock has been traded on the NASDAQ Global Market under the symbol "GUID" since December 13, 2006. Prior to that time, there was no public market for our common stock. The following table sets forth the range of high and low sales prices on the NASDAQ Global Market of the common stock for the periods indicated, as reported by NASDAQ.

	Fiscal 2012		Fiscal 2011	
	High	**Low**	**High**	**Low**
First Quarter	$ 11.87	$ 5.88	$ 8.71	$ 6.50
Second Quarter	11.23	7.80	8.47	6.97
Third Quarter	11.95	8.80	8.58	5.74
Fourth Quarter	12.37	10.20	6.84	5.54

As of January 31, 2013, there were 19 holders of record of our common stock. On February 14, 2013, the last sale price reported on the NASDAQ Global Market for our common stock was $9.86 per share.

In October 1998, we elected to be treated for federal income tax purposes as an "S Corporation" under Subchapter S of the Internal Revenue Code. In addition, we elected or were otherwise treated as an S Corporation for certain state tax purposes. We filed an election to revoke our S Corporation status in December 2006. As an S Corporation, we historically paid dividends to our stockholders. We anticipate that any future earnings will be retained to finance continuing development of our business. Accordingly, we do not anticipate paying dividends on our common stock in the foreseeable future. Any determination to pay dividends in the future will be at the discretion of our Board of Directors and will depend upon our results of operation, financial condition and other factors as the Board of Directors, in its discretion, deems relevant.

Purchases of Equity Securities by the Issuer

In August 2008, our Board of Directors authorized a program to repurchase shares of our common stock having an aggregate value of up to $8.0 million. As of December 31, 2012, we had approximately $3.6 million remaining under this authorization. The authorization allows us to repurchase our common stock from time to time through open market purchases and negotiated transactions, or otherwise. The timing, nature and amount of such transactions will depend on a variety of factors, including market conditions, and the program may be suspended, discontinued or accelerated at any time. The sources of funds for the purchases under the remaining authorization are our existing cash on hand and cash from operations. Purchases are made in the open market, through block trades and other negotiated transactions. Repurchased shares are held in Treasury Stock and have not been retired.

In addition to the repurchased shares outlined below, the Company withheld approximately 207,000, 204,000 and 86,400 common shares in 2012, 2011 and 2010, respectively, from employees to satisfy their personal income tax withholding requirements upon the vesting of restricted stock awards issued under our equity compensation plans. Withheld shares are held in Treasury Stock and have not been retired. The Company may engage in similar transactions from time to time related to future vesting of employee restricted stock awards.

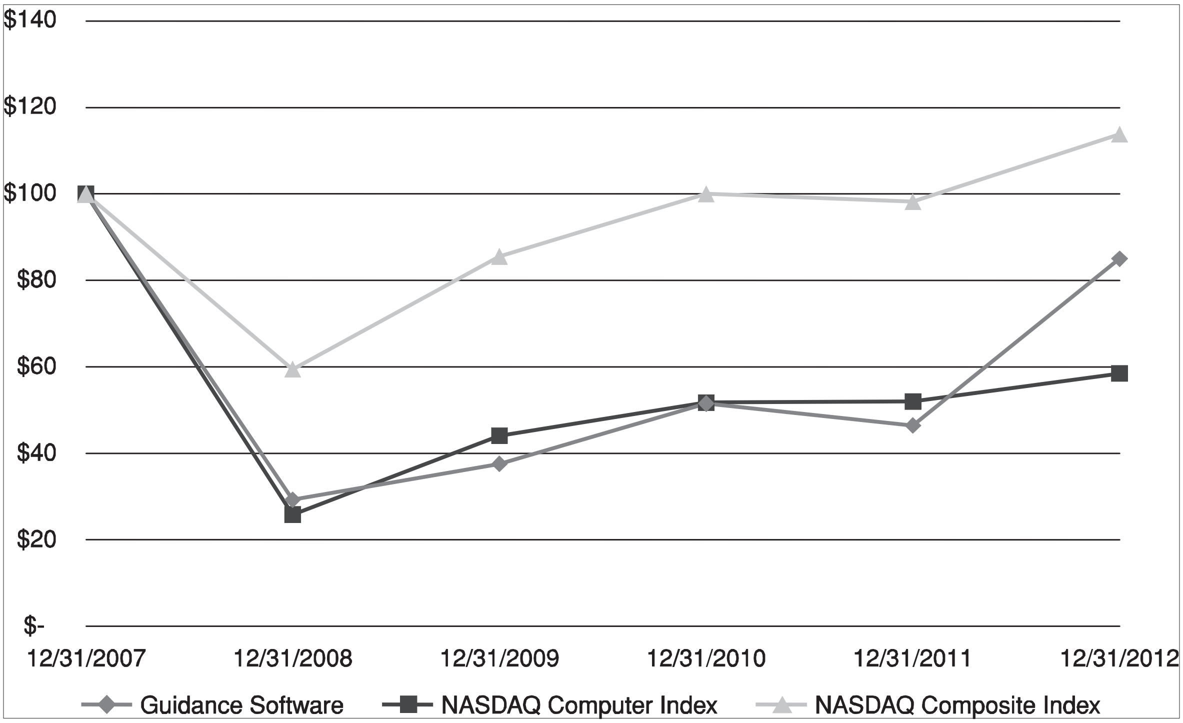
The following table summarizes our purchases of common stock:

Calendar Month	Total Number of Shares Repurchased	Average Price Paid Per Share	Total Number of Shares Purchased as Part of Publicly Announced Program	Approximate Dollar Value of Shares that May Yet Be Purchased under the Program
July 2008	—	$ —	—	$ 8,000,000
August 2008	22,500	$ 5.99	22,500	$ 7,866,000
September 2008	20,000	$ 5.98	20,000	$ 7,750,000
May 2009	98,915	$ 3.31	98,915	$ 7,422,000
June 2009	173,100	$ 3.63	173,100	$ 6,794,000
July 2009	95,836	$ 3.78	95,836	$ 6,432,000
August 2009	54,850	$ 3.86	54,850	$ 6,220,000
August 2010	141,356	$ 5.07	141,356	$ 5,503,000
September 2010	125,045	$ 5.27	125,045	$ 4,844,000
October 2010	13,003	$ 5.85	13,003	$ 4,768,000
November 2010	224	$ 6.00	224	$ 4,766,000
September 2011	21,625	$ 5.96	21,625	$ 4,637,000
October 2011	54,952	$ 5.97	54,952	$ 4,310,000
November 2011	49,006	$ 5.97	49,006	$ 4,017,000
December 2011	61,394	$ 6.00	61,394	$ 3,649,000
Total	931,806		931,806	$ 3,649,000

Stock Performance Graph and Cumulative Total Return

The following graph illustrates a comparison of the total cumulative stockholder return on our common stock for each of the last five fiscal years with two indices: (i) the NASDAQ Composite Index (symbol: IXIC) and (ii) the NASDAQ Computer Index (symbol: IXK). The graph assumes an initial investment of $100 at the beginning of the five year period and that all dividends have been reinvested. No cash dividends have been declared on our common stock. The quotes were obtained from http://finance.yahoo.com. The comparisons in the graph are required by the SEC and are not intended to forecast or be indicative of the possible future performance of our common stock.

COMPARISON OF CUMULATIVE TOTAL RETURN



Item 6. Selected Consolidated Financial Data

The following selected consolidated financial data should be read in conjunction with "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations" and our consolidated financial statements included in "Item 8. Financial Statements and Supplementary Data." The selected consolidated balance sheet data as of December 31, 2012 and 2011 and the selected consolidated statement of operations data for each of the three years in the period ended December 31, 2012, have been derived from our audited consolidated financial statements, which are included in "Item 8. Financial Statements and Supplementary Data" to this Annual Report. The selected consolidated balance sheet data as of December 31, 2010, 2009 and 2008 and selected consolidated statement of operations data for the year ended December 31, 2009 and 2008 have been derived from our audited consolidated financial statements not included in this Annual Report. Historical results are not necessarily indicative of the results to be expected in the future.

	Year Ended December 31,				
	2012	2011	2010	2009	2008
Consolidated Statements of Operations Data:					
Revenues:					
Product revenue	$ 56,116	$ 52,345	$ 43,930	$ 34,068	$ 48,245
Subscription revenue	9,202	—	—	—	—
Services and maintenance revenue	64,152	52,256	47,970	40,822	43,221
Total revenues	129,470	104,601	91,900	74,890	91,466
Cost of revenues (excluding amortization and depreciation, shown below):					
Cost of product revenue	7,982	5,973	4,937	2,793	3,143
Cost of subscription revenue	3,722	—	—	—	—
Cost of services and maintenance revenue	24,733	22,453	19,874	17,898	22,805
Total cost of revenues (excluding amortization and depreciation, shown below)	36,437	28,426	24,811	20,691	25,948
Operating expenses:					
Selling and marketing	42,278	36,992	35,947	36,475	39,714
Research and development	24,459	18,882	17,012	14,225	13,022
General and administrative	21,224	16,432	13,985	13,497	18,054
Depreciation and amortization	6,859	5,424	4,700	4,427	4,098
Total operating expenses	94,820	77,730	71,644	68,624	74,888
Operating (loss) income	(1,787)	(1,555)	(4,555)	(14,425)	(9,370)
Other income and expense:					
Interest income	39	53	78	86	720
Interest expense	(72)	(9)	(5)	(10)	(49)
Other income, net	25	20	1	44	70
Total other income and expense	(8)	64	74	120	741
Income (loss) before income taxes	(1,795)	(1,491)	(4,481)	(14,305)	(8,269)
Income tax provision (benefit)	188	158	121	(380)	1,967
Net income (loss)	$ (1,983)	$ (1,649)	$ (4,602)	$ (13,925)	$ (10,596)
Net income (loss) income per share:					
Basic	$ (0.08)	$ (0.07)	$ (0.20)	$ (0.60)	$ (0.46)
Diluted	$ (0.08)	$ (0.07)	$ (0.20)	$ (0.60)	$ (0.46)
Weighted average number of shares used in per share calculations(1):					
Basic	24,577	23,252	23,024	23,093	23,160
Diluted	24,577	23,252	23,024	23,093	23,160

	Year Ended December 31,				
	2012	2011	2010	2009	2008
Non-Cash Share-Based Compensation Data(2):					
Cost of product revenue	$ 101	$ 82	$ 54	$ 23	$ 36
Cost of subscription revenue	142	—	—	—	—
Cost of services and maintenance revenue	1,041	898	847	1,098	1,788
Selling and marketing	1,639	1,613	1,601	1,992	2,923
Research and development	1,428	1,373	1,192	1,320	1,433
General and administrative	1,500	1,566	1,493	1,510	2,796
Total non-cash share-based compensation	$ 5,851	$ 5,532	$ 5,187	$ 5,943	$ 8,976

	As of December 31,				
	2012	2011	2010	2009	2008
Balance Sheet Data:					
Cash and cash equivalents	$ 32,606	$ 37,048	$ 27,621	$ 36,585	$ 36,006
Total assets	$ 100,574	$ 77,328	$ 67,440	$ 69,019	$ 78,844
Notes payable and capital leases	$ 574	$ 113	$ 192	$ 171	$ 163
Deferred revenues	$ 43,452	$ 39,582	$ 33,614	$ 36,088	$ 33,285
Total stockholders' equity	$ 39,020	$ 24,311	$ 22,529	$ 23,462	$ 33,094

(1) See Note 4 to our consolidated financial statements for an explanation of the determination of the number of shares used to compute basic and diluted per share amounts.

(2) Non-cash compensation recorded in each of the five years ended December 31, 2012 relates to stock options granted to employees measured under the fair value method and includes costs related to nonvested share grants.

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

The following discussion of our financial condition and results of operations should be read together with the financial statements and related notes that are included elsewhere in this Annual Report on Form 10-K. This discussion may contain forward-looking statements based upon current expectations that involve risks and uncertainties. Our actual results may differ materially from those anticipated in these forward-looking statements as a result of various factors, including those set forth under "Risk Factors" or in other parts of this Annual Report on Form 10-K.

Overview

We develop and provide the leading software and hardware solutions for digital investigations, including EnCase® Enterprise, a network-enabled product primarily for corporations and government agencies, and EnCase® Forensic, a desktop-based product primarily for law enforcement agencies and digital investigators.

We were incorporated and commenced operations in 1997. From 1997 through 2002, we generated a substantial portion of our revenues from the sale of our EnCase® Forensic products and related services. We have experienced increases in our revenue as a result of the release of our EnCase® Enterprise products in late 2002, which expanded our customer base into corporate enterprises and federal government agencies. In addition, the releases of our EnCase® eDiscovery solution in late 2005 and EnCase® Information Assurance solution in late 2006 (which was replaced by our EnCase® Cybersecurity solution in 2009) have increased our average transaction size. In May 2010, we added a family of data acquisition forensic hardware products including forensic duplicators, multiple write blockers and other hardware through our acquisition of Tableau, LLC ("Tableau"). In February 2012, we added cloud-based document review and production software-as-a-service for corporations and law firms through our acquisition of CaseCentral, Inc. ("CaseCentral") We anticipate that sales of our EnCase Enterprise products and related services, in particular our EnCase eDiscovery and EnCase Cybersecurity solutions, sales of our forensic hardware products and sales of subscriptions for cloud-based document review and production SAAS will comprise a substantial portion of our future revenues.

Important Factors Affecting Our Results of Operations

There are a number of trends that may affect our business and our industry. We have identified factors that we expect to play an important role in our future growth and profitability. Some of these trends or other factors include:

- *Legislative and regulatory developments.* Our digital investigation solutions allow law enforcement agencies, government organizations and corporations to conduct investigations within the legal and regulatory framework. Historically, the implementation of new laws and regulations surrounding digital investigations has helped create demand for our products. Future changes in applicable laws or regulations could enhance or detract from the desirability of our products.

- *Information technology budgets.* Deployment of our solutions may require a substantial capital expenditure by our customers. Budgets for information technology-related capital expenditures at corporations and all levels of government organizations are typically cyclical in nature, with generally higher budgets in times of improving economic conditions and lower budgets in times of economic slowdowns.

- *Law enforcement agency budgets.* We sell our EnCase® Forensic products and training services primarily to law enforcement agencies. Because of the limited nature of law enforcement budgets, funds are typically initially allocated toward solving issues perceived to be the most pressing. Sales of our products could be impacted by changes in the budgets of law enforcement agencies or in the relative priority assigned to digital law enforcement investigations.

- *Prevalence and impact of hacking incidents and spread of malicious software.* The increasing sophistication of hacking attacks on government and private networks and the global spread of malicious software, such as viruses, worms and rootkits, have increased the focus of corporations and large government organizations on digital investigations and other aspects of network security, which has, in turn, increased demand for our products. Future changes in the number and severity of such attacks or the spread of malicious software could have an effect on the demand for our products.

- *Seasonality in revenues.* We experience seasonality in our revenues, with the third and fourth quarters typically having the highest revenues for the year. We believe that this seasonality results primarily from our customers' budgeting cycles. The federal government budget year ends in the third calendar quarter of the year and a majority of corporate budget years end in the fourth calendar quarter of the year. In addition, our customers also tend to make software purchases near the end of a particular quarter, which tends to make our revenues for a particular period unpredictable for a significant portion of that period. We expect that this seasonality within particular years and unpredictability within particular quarterly periods will continue for the foreseeable future.

- *Amount of commercial litigation.* Because commercial litigation often involves e-discovery, an increase in commercial litigation could increase demand for our products and services, while a decrease in commercial litigation could decrease demand.

Summary of Results of Operations

Our total revenue for the year ended December 31, 2012 was $129.5 million, an increase of $24.9 million, or 24%, from 2011. Product revenue was $56.1 million for the year ended December 31, 2012, an increase of $3.8 million, or 7%, from 2011. Subscription revenue was $9.2 million for the year ended December 31, 2012, compared to none in 2011. Services and maintenance revenue was $64.2 million for the year ended December 31, 2012, an increase of $11.9 million, or 23%, from 2011. The increase in our total revenue for the year ended December 31, 2012 compared to 2011 was primarily due to sales of our new subscription based products due to our acquisition of CaseCentral in February 2012, increased services and maintenance revenue as a result of sustained increases in our installed product base and high annual renewals by our customers, and growth in the enterprise software market which lead to increased sales of our EnCase® Enterprise family of products.

Our net loss for the year ended December 31, 2012 was $2.0 million, or $0.08 per share, compared to a net loss of $1.6 million, or $0.07 per share, for 2011. Our profitability is primarily dependent upon revenue from the sale of our products. Cost of revenues for the year ended December 31, 2012 was $36.4 million, an increase of $8.0 million, or 28%, from 2011. The increase was primarily the result of increased sales of subscription based products and professional services. Profitability is also affected by the costs and expenses associated with developing, selling and marketing our products. Operating expenses for the year ended December 31, 2012 were $94.8 million, an increase of $17.1 million, or 22%, from 2011, due primarily to increases in selling and marketing expenses, general and administrative expenses and research and development costs.

Sources of Revenue

Our software product sales transactions typically include the following elements: (i) a software license fee paid for the use of our products under a perpetual license term, or for a specific term; (ii) an arrangement for first-year support and maintenance, which includes unspecified software updates, upgrades and post-contract support; (iii) and professional services for installation, implementation, consulting and training. With our acquisition of CaseCentral in February 2012, we began to generate revenue from cloud-based document review and production software sold as subscription services. We derive the majority of our revenue from sales of our software products. We sell our software products and services primarily through our direct sales force and in some cases we utilize resellers. We sell our hardware products primarily through resellers.

	Year Ended December 31,				
(Dollars in thousands)	**2012**	**Change %**	**2011**	**Change %**	**2010**
Product revenue	$ 56,116	*7%*	$ 52,345	*19%*	$ 43,930
Subscription revenue	9,202	*100%*	—	—	—
Services and maintenance revenues:					
Professional services	18,058	*20%*	15,037	*3%*	14,609
Training	9,835	*27%*	7,728	*—%*	7,762
Maintenance	36,259	*23%*	29,491	*15%*	25,599
Total services and maintenance revenues	64,152	*23%*	52,256	*9%*	47,970
Total revenues	$ 129,470	*24%*	$ 104,601	*14%*	$ 91,900

Product Revenues

We generate product revenues principally from two product categories: Enterprise products and Forensic products. Our Enterprise products include perpetual licenses and Pay-Per-Use fees related to our EnCase® Enterprise, eDiscovery, and EnCase® Cybersecurity. Our Forensic products include revenue related to EnCase® Forensic, EnCase® Portable, and forensic hardware sales. Our Forensic products also include our Premium License Support Program ("PLSP") product, which was sold on a subscription basis for a term of one or three years; sales of PLSP ended in June 2011 when we introduced EnCase® Forensic v7. During the first two quarters of each fiscal year, we typically experience our lowest levels of product sales due to the seasonal budgetary cycles of our customers. The third quarter is typically the strongest quarter for sales to our federal government customers. Typically, sales to our corporate customers are highest in the fourth quarter.

Product revenues increased by $3.8 million, or 7%, from $52.3 million for the year ended December 31, 2012 from 2011. The increase was primarily due to increases in Enterprise product revenues and Forensic hardware revenues, partially offset by lower Forensic software revenues. Enterprise product revenues increased by $5.1 million, or 21%, from $24.8 million for the year ended December 31, 2012 from 2011, primarily due to an increase in the number of new EnCase® Enterprise customers resulting from additional functionality made available in our Enterprise products and an increase in sales to existing customers. During the year ended December 31, 2012 we added 358 new EnCase® Enterprise customers, as compared to 285 for the year ended December 31, 2011. During 2012, 74% of Enterprise product revenues were the result of sales to existing customers, compared to 61% in 2011. Forensic hardware revenue increased by $3.7 million, or 44%, from $8.4 million for the year ended December 31, 2012 from 2011, primarily due to increased sales of new versions of our hardware products that were made available during the year. The increases in Enterprise product revenues and Forensic hardware revenues were offset by a decrease in Forensic software revenues of $5.4 million, or 28%, from $19.0 million for the year ended December 31, 2012 from 2011. The decrease in Forensic software revenues was due to the initial release of the latest version of our EnCase® Forensic product in June 2011, which generated increased demand for that product in 2011 as compared to 2012.

Product revenues increased by $8.4 million, or 19%, from $43.9 million for the year ended December 31, 2011 from 2010, primarily due to a $6.3 million, or 30%, increase in Forensic product revenues. The increase in Forensic product revenues was due to a $3.1 million, or 19%, increase in forensic software revenues and a $3.2 million, or 62%, increase in forensic hardware revenues. The increase in forensic software revenues was primarily due to increased sales volume of the latest version of our EnCase® Forensic software product released in June 2011. The increase in forensic hardware revenues was primarily due to the inclusion of a full twelve months of sales in 2011 of the forensic hardware products that we acquired through our acquisition of Tableau in May 2010 as compared to our forensic hardware revenues in 2010, which included only approximately eight months of such sales. Enterprise product revenues increased $2.1 million, or 9%, for the year ended December 31, 2011 from 2010. This increase was primarily attributable to increased sales to our customers resulting from additional functionality made available in our Enterprise products during the year.

Subscription Revenues

With our acquisition of CaseCentral in February 2012, we began to generate revenue from cloud-based document review and production software sold as subscription services. Subscription service customers have the right to access our cloud-based document review and production software; however, they may not take possession of the software at any time during the term of the agreement. In general, we recognize revenue for subscriptions on a straight-line basis over the contract period commencing on the date the subscription is made available to the customer. Usage-based fees, which are determined monthly, are recognized when incurred.

Subscription revenues were $9.2 million for the year ended December 31, 2012, compared with none in 2011. We started to earn revenue from cloud-based document review and production software products in February 2012 as a result of our acquisition of CaseCentral.

Services and Maintenance Revenues

Services and maintenance revenues increased $11.9 million, or 23%, from $52.3 million for the year ended December 31, 2012, from 2011. Services revenues increased $5.1 million, or 23% from $22.8 million, for the year ended December 31, 2012, from 2011, primarily due to an increase of $3.0 million in professional services revenues related to our acquisition of CaseCentral in February 2012 and a $2.1 million increase in training revenue. The increase in training revenue was primarily due to increased demand for training courses related to new product releases. Maintenance revenues increased $6.8 million, or 23%, from $29.5 million for the year ended December 31, 2012, from 2011 primarily as a result of sustained increases in our installed product base and high annual renewal rates by customers desiring continuing maintenance support on our products. In 2012 our installed product base increased primarily through the addition of 358 new EnCase Enterprise customers and sales of 106 new EnCase e-Discovery and EnCase Cybersecurity modules to existing EnCase Enterprise customers.

Services and maintenance revenues increased $4.3 million, or 9%, from $48.0 million for the year ended December 31, 2011, from 2010. Services revenues increased $0.4 million, or 3%, for the year ended December 31, 2011, from 2010, primarily due to revenue from certain significant one-time consulting engagements performed during the first six months of 2011. Maintenance revenues increased $3.9 million, or 15%, from $25.6 million for the year ended December 31, 2011, from 2010, primarily as a result of sustained increases in our installed product base and high annual renewal rates by customers desiring continuing maintenance support on our products. In 2011 our installed product base increased primarily through the addition of 285 new EnCase Enterprise customers and sales of 106 new EnCase e-Discovery and EnCase Cybersecurity modules to existing EnCase Enterprise customers.

Cost of Revenues

	Year Ended December 31,				
(Dollars in thousands)	**2012**	**Change %**	**2011**	**Change %**	**2010**
Cost of product revenues	$ 7,982	*34%*	$ 5,973	*21%*	$ 4,937
Cost of subscription revenue	3,722	*100%*	—	—	—
Cost of services and maintenance revenues:					
Professional services	16,681	*18%*	14,179	*19%*	11,903
Training	6,095	*6%*	5,735	*5%*	5,474
Maintenance	1,957	*(23)%*	2,539	*2%*	2,497
Total cost of services and maintenance revenues	24,733	*10%*	22,453	*13%*	19,874
Total cost of revenues	$ 36,437	*28%*	$ 28,426	*15%*	$ 24,811
Share-based compensation included above:					
Cost of product revenue	$ 101		$ 82		$ 54
Cost of subscription revenue	$ 142		$ —		$ —
Cost of services and maintenance revenues	$ 1,041		$ 898		$ 847
Gross Margin Percentage					
Products	85.8%		88.6%		88.8%
Subscription	59.5%		—%		—%
Services and maintenance	61.4%		57.0%		58.6%
Total	71.9%		72.8%		73.0%

Cost of Product Revenues

Cost of product revenues consists principally of the cost of producing our software products, the cost of manufacturing our hardware products and product distribution costs, including the cost of compact discs, packaging, shipping, customs duties, and, to a lesser extent, compensation and related overhead expenses. While these costs are primarily variable with respect to sales volumes, they remain low in relation to the revenue generated and result in higher gross margins than our services and training businesses. Our gross margins can be affected by product mix, as our enterprise products are generally higher margin products than our forensic products, which include software and hardware.

Cost of product revenues increased by $2.0 million, or 34%, from $6.0 million for the year ended December 31, 2012, from 2011. The increase was primarily a result of an increase in forensic hardware product revenues. Product gross margin decreased slightly to 85.8% in 2012 from 88.6% in 2011 primarily due to a $3.7 million increase in sales of forensic hardware products to $12.1 million, or 21.6% of product sales. Forensic hardware sales have lower gross margins than our software products.

Cost of product revenues increased by $1.0 million, or 21%, from $4.9 million, for the year ended December 31, 2011, from 2010. The increase was primarily a result of an increase in forensic hardware product revenues due to our acquisition of certain of the assets of Tableau in May 2010. Product gross margin decreased slightly to 88.6% in 2011 from 88.8% in 2010 primarily due to a $3.2 million increase in sales of forensic hardware products to $8.4 million, or 16.1% of product revenues. Forensic hardware sales have lower gross margins than our software products.

Cost of Subscription Revenues

The cost of subscription revenues consists principally of employee compensation costs, including share-based compensation and related overhead, software maintenance paid to third party vendors, and SaaS hosting infrastructure costs. The cost of subscription revenue was $3.7 million for the year ended December 31, 2012, compared with none in 2011, as the cloud-based document review and production software products did not become a part of our product mix until the completion of our acquisition of CaseCentral in February 2012.

Cost of Services and Maintenance Revenues

The cost of services and maintenance revenues are largely comprised of employee compensation costs, including share-based compensation, and related overhead, travel and facilities costs. The cost of maintenance revenue is primarily outsourced, but also includes employee compensation cost for customer technical support and related overhead costs.

The cost of services and maintenance revenues increased $2.3 million, or 10%, from $22.5 million for the year ended December 31, 2012, from 2011. The increase in the cost of services and maintenance revenues for the year ended December 31, 2012 from 2011 was due primarily to an increase in costs added as a result of the acquisition of CaseCentral in February 2012. We added 10 employees to cost of services and maintenance from the CaseCentral acquisition. Services and maintenance gross margin was 61.4% in 2012, compared to 57.0% in 2011. The higher services and maintenance gross margin for the year ended December 31, 2012, from 2011, was a result of higher gross margins on our services revenue due the addition of higher-margin services through our acquisition of CaseCentral.

The cost of services and maintenance revenues increased $2.6 million, or 13%, from $19.9 million for the year ended December 31, 2011, from 2010. The increase in the cost of services and maintenance revenues in 2011 from 2010 was due primarily to increases in compensation and related expenses, associated with higher revenues and higher utilization rates in our professional services organization, as well as an increase in third-party consultants on certain engagements. Third-party consultants, which are generally more expensive than our own professional services consultants, are used mostly when the demand for our own consultants exceeds our internal capacity.

Services and maintenance gross margin was 57.0% in 2011, compared to 58.6% in 2010. The lower services and maintenance gross margin in 2011 was primarily a result of lower margins on services revenue in 2011, compared to 2010, which was primarily due to an increase in the number of third-party consultants used on certain professional engagements.

Operating Expenses

(Dollars in thousands)	Year Ended December 31, 2012	Change %	2011	Change %	2010
Selling and marketing expenses	$ 42,278	*14%*	$ 36,992	*3%*	$ 35,947
Research and development expenses	$ 24,458	*30%*	$ 18,882	*11%*	$ 17,012
General and administrative expenses	$ 21,224	*29%*	$ 16,432	*18%*	$ 13,985
Depreciation and amortization expense	$ 6,859	*26%*	$ 5,424	*15%*	$ 4,700
As a percent of revenue:					
Selling and marketing expenses	32.8%		35.4%		39.1%
Research and development expenses	18.9%		18.1%		18.5%
General and administrative expenses	16.4%		15.7%		15.2%
Depreciation and amortization expense	5.3%		5.2%		5.1%
Share-based compensation included above:					
Selling and marketing expenses	$ 1,639		$ 1,613		$ 1,601
Research and development expenses	$ 1,428		$ 1,373		$ 1,192
General and administrative expenses	$ 1,500		$ 1,566		$ 1,493

Selling and Marketing Expenses

Selling and marketing expenses consist primarily of personnel costs and costs related to our sales force and marketing staff. Selling and marketing expenses also include expenses relating to advertising, brand building, marketing promotions and trade show events (net of amounts received from sponsors and participants), product management, and travel and allocated overhead.

Selling and marketing expenses increased $5.3 million, or 14%, from $37.0 million for the year ended December 31, 2012, from 2011. Approximately $3.7 million of the increase was due to higher compensation costs and other employee-related expenses associated with increased product revenues, while approximately $1.6 million of the increase was due to higher compensation and other employee-related expenses due to an increase in headcount in connection with the acquisition of CaseCentral in February 2012.

Selling and marketing expenses increased $1.0 million, or 3%, from $35.9 million for the year ended December 31, 2011, from 2010. The increase was primarily due to higher compensation costs and related expenses associated with increased product revenues.

Research and Development Expenses

Research and development expenses consist primarily of compensation, including share-based compensation and related overhead expenses. In order to develop new product offerings, continue developing existing products and improve quality assurance, and incorporate personnel to support our new cloud-based subscription offerings we increased the number of research and development personnel that we employed during 2012 compared to 2011 and 2010.

Research and development expenses increased $5.6 million, or 30%, from $18.9 million for the year ended December 31, 2012, from 2011. Approximately $3.6 million of the increase was due to compensation and other employee-related expenses increasing due to an increase in headcount in connection with the acquisition of CaseCentral in February of 2012. Approximately $2.0 million of the increase was due to higher compensation costs and other employee-related expenses associated with increased headcount due to the number of products in development.

Research and development expenses increased $1.9 million, or 11%, from $17.0 million for the year ended December 31, 2011, from 2010. Approximately $1.5 million of the increase was driven by increased compensation and related expenses resulting from an increase in headcount during the year due to the number of products in development, and approximately $0.4 million of the increase was due to the acquisition of Tableau in May 2010.

General and Administrative Expenses

General and administrative expenses consist of personnel and related costs for accounting, legal, information systems, human resources and other administrative functions. In addition, general and administrative expenses include professional service fees, bad debt expense, and other corporate expenses and related overhead.

General and administrative expenses increased by $4.8 million, or 29%, from $16.4 million, for the year ended December 31, 2012, from 2011. Approximately $2.5 million of the increase was due to acquisition and integration-related expenses incurred in connection with the acquisition of CaseCentral in February, 2012, approximately $1.3 million of the increase was due to an increase in legal fees primarily due to legal fees incurred in connection with patent infringement complaints filed in 2011,and approximately $2.3 million of the increase was due to increased compensation costs and other employee and facility-related expenses of which approximately $0.7 million was due to the CaseCentral acquisition. These increases were partially offset by a charge in the first quarter of 2011 of $1.3 million related to certain state sales tax obligations including related interest and penalties.

General and administrative expenses increased by $2.4 million, or 18%, from $14.0 million for the year ended December 31, 2011, from 2010. The increase was primarily attributable to a charge of $1.3 million related to certain state sales tax obligations including related interest and penalties, and an increase of $0.8 million in legal fees primarily incurred in connection with patent infringement complaints filed in 2011.

Depreciation and Amortization Expenses

Depreciation and amortization expenses consist of depreciation and amortization of our leasehold improvements, furniture, computer hardware and software and intangible assets. In 2012, 2011 and 2010, we invested $4.0 million, $2.1 million and $2.3 million, respectively, in capital equipment and leasehold improvements.

Depreciation and amortization expense increased $1.4 million, or 27%, from $5.4 million for the year ended December 31, 2012, from 2011, primarily as a result of the amortization of intangibles assets we acquired through our acquisition of CaseCentral in February 2012.

Depreciation and amortization expense increased $0.7 million, or 15%, from $4.7 million for the year ended December 31, 2011, from 2010, primarily as result of the amortization of intangible assets we acquired through our acquisition of certain of the assets of Tableau in May 2010.

Other Income and Expense

Total other income and expense consists of interest earned on cash balances, interest expense paid and other miscellaneous income and expense items. For the year ended December 31, 2012, we recorded expense of $8,000 as compared with income of $64,000 and $74,000 for the same periods in 2011 and 2010, respectively. The change from 2011 to 2012 was primarily due to an increase in interest expense attributable to equipment leases related to the acquisition of CaseCentral in February 2012. The change from 2010 to 2011 was primarily due to a decrease in interest income.

Income Tax Provision (Benefit)

The effective tax rate in years 2012, 2011, and 2010 was 10.5%, 10.6%, and 2.7%, respectively. In 2012, the effective tax rate differed from the federal statutory rate of 34% primarily due to the tax impact of reduction in our effective state income tax rate as a result of tax law changes, non-deductibility of certain acquisition related expenditures, deferred income tax adjustments, the tax impact of excess tax benefit of certain share-based compensation, and the impact of providing a valuation allowance against California research and development credits and deferred tax assets. The effective tax rates in 2011 and 2010 differed from the federal statutory rate of 34% primarily due to the tax impact of certain share-based compensation charges that are not deductible for tax purposes, and the impact of providing a valuation allowance against deferred tax assets, partially offset by federal and California research and development credits. See Note 8 to our Consolidated Financial Statements for additional information.

Liquidity, Capital Resources and Financial Condition

Since inception, we have largely financed our operations from our cash flow from operations. In December 2006, we issued and sold 3,250,000 shares of our common stock at $11.50 per share, for net proceeds of $34.8 million in our initial public offering. We have largely financed our operations from the cash flow generated from the sale of our products and services. As of December 31, 2012, we had $32.6 million in cash and cash equivalents. On February 21, 2012, we acquired CaseCentral, a privately held a provider of cloud-based document review and production software for approximately $21.1 million, consisting of $9.6 million in cash (net of $1.4 million in cash acquired), $9.5 million in Company common stock and contingent consideration with an acquisition date fair value of $0.6 million. Depending on CaseCentral's SaaS revenue over the three 12-month periods starting April 1, 2012, we may be required to pay up to a maximum of $33.0 million in cash to CaseCentral's former shareholders with respect to those periods. We incurred $2.0 million in acquisition-related costs. The transaction closed on February 21, 2012 and the results of operations of CaseCentral have been included in the Company's consolidated financial statements subsequent to that date. We believe that our cash flow from operations and our cash and cash equivalents are sufficient to fund our working capital and capital expenditure requirements for at least the next 12 months.

Changes in Cash Flow

We generate cash from operating activities primarily from cash collections related to the sale of our products and services. Net cash provided by operating activities was $9.4 million in 2012, compared with $13.7 million in 2011. The decrease in cash provided by operations was primarily a result of an increase in deferred revenue of $0.6 million in 2012 compared to an increase of $6.0 million in 2011, a decrease in accrued liabilities of $326,000 in 2012 compared to an increase of $1.8 million in 2011, partially offset by an increase in trade receivables of $0.9 million in 2012 compared to an increase of $3.2 million in 2011 and depreciation and amortization of $6.9 million in 2012 compared to $5.4 million in 2011.

Net cash provided by operating activities was $13.7 million in 2011, compared with $5.6 million in 2010. The increase in cash provided by operations was primarily a result of an increase in deferred revenue of $6.0 million in 2011 compared to a decrease in deferred revenue of $2.5 million in 2010, a decrease in our net loss to $1.6 million from $4.6 million in 2010, partially offset by an increase in trade receivables of $3.2 million in 2011 compared to a decrease of $1.2 million in 2010.

Net cash used in investing activities was $13.7 million in 2012 compared to $2.1 million in 2011 and $13.0 million in 2010. The increase in net cash used in investing activities in 2012 was primarily due to our acquisition of CaseCentral in February 2012. The decrease in net cash used in investing activities in 2011 was due to the acquisition of Tableau in May 2010 for the net cash purchase price of $10.7 million.

Net cash used in financing activities was $172,000 in 2012 compared to $2.2 million in 2011 and $1.6 million in 2010. Cash used in financing activities in 2012 included $2.1 million of common stock repurchased or withheld and $1.5 million of principal payments on capital leases and other obligations, partially offset by $3.4 million of proceeds from the exercise of stock options. Cash used in financing activities in 2011 included $2.6 million of repurchases and withholding of common stock, partially offset by $0.5 million in proceeds from stock option exercises. Cash used in financing activities in 2010 included $2.0 million of repurchases and withholdings of common stock, partially offset by $0.4 million in proceeds from stock option exercises and lower principal payments on our capital lease obligations.

On July 12, 2012, we entered into a Loan and Security Agreement (“Loan Agreement”) with a bank. The Loan Agreement creates a line of credit to provide for one or more revolving loans, non-revolving loans or term loans and up to $3.0 million in standby letters of credit. The maximum principal amount of loans that may be outstanding at any given time under the Loan Agreement, including standby letters of credit, is $7.0 million. Any borrowings under the Loan Agreement would be collateralized by substantially all our assets. The Loan Agreement requires that we remain in compliance with certain financial covenants, including that we maintain unrestricted cash and marketable securities of not less than $12.5 million, that we maintain a ratio of total funded indebtedness to EBITDA of not greater than 2.25 to 1, that we maintain a ratio of cash flow to current portion of long-term debt of not less than 1.25 to 1, and that we shall not allow a cumulative net loss of more than $5.0 million during any fiscal year. There were no amounts outstanding under this line of credit and we were in compliance with the covenants associated with the revolving line of credit as of December 31, 2012. Borrowings under the Loan Agreement bear interest at one of the following rates (as selected by us): a rate equal to the bank’s alternate base rate plus 1.00% or LIBOR plus 2.25%. All principal, interest and other amounts owing under the Loan Agreement will be due and payable in full on or prior to June 30, 2014. The Loan Agreement supersedes and replaces our Amended and Restated Credit Agreement, dated as of May 1, 2007, which would have expired on August 31, 2012.

As of December 31, 2012, we had three outstanding stand-by letters of credit in the amounts of $112,500, $338,400, and $1.2 million related to three of our facility leases and another outstanding stand-by letter of credit in the amount of $150,000, related to equipment leases, all secured by substantially all our assets. The available borrowing under the Loan Agreement at December 31, 2012 is $5.2 million.

Contractual Obligations and Commitments

In connection with the CaseCentral acquisition, we may be required to pay former CaseCentral shareholders a total of up to $33 million with respect to the three 12-month periods (“earn-out periods”) starting April 1, 2012. The amount of contingent consideration payable with respect to each of the earn-out periods is equal to 35% of certain qualifying CaseCentral SaaS revenues and EnCase® eDiscovery revenues in excess of $11.1 million during each of the three earn-out periods and is limited to $3.0 million for the first earn-out period, a cumulative total of $13.0 million for the first and second earn-out periods and a cumulative total of $33.0 million for all three earn-out periods. Any earn-out consideration is payable within 65 days after the end of the applicable earn-out period. At December 31, 2012, the fair value of the contingent consideration, which is calculated by summing the present values of various probability-weighted possible outcomes, was estimated to be $0.6 million and was included as a liability on our consolidated balance sheet.

At December 31, 2012, other than the CaseCentral contingent consideration, our outstanding contractual cash commitments were largely limited to our non-cancelable lease obligations, primarily relating to office facilities, as follows:

	Payments Due by Period				
(Dollars in thousands)	**Total**	**Less than 1 Year**	**1-3 Years**	**3-5 Years**	**More than 5 Years**
Capital lease obligations, including interest	$ 640	$ 453	$ 187	$ —	$ —
Non-cancelable operating lease obligations	$ 34,194	$ 3,770	$ 6,054	$ 5,586	$ 18,784
Purchase obligations	$ 2,044	$ 2,044	$ —	$ —	$ —

Our future capital requirements will depend on many factors, including our rate of revenue growth, the expansion of our selling and marketing activities, the timing and extent of research and development spending to support product development and enhancement efforts, costs associated with expansion into new territories or markets, the timing of the introduction of new products and services, the enhancement of existing products and the continuing market acceptance of our products and services. To the extent that our existing cash, cash from operations or the availability of cash under our line of credit are insufficient to fund our future activities and planned growth, we may need to raise additional funds through public or private equity or debt financings. Additional funds may not be available on terms favorable to us or at all. Furthermore, although we cannot accurately anticipate the effect of inflation or foreign exchange markets on our operations, we do not believe these external economic forces have had, or are likely in the foreseeable future to have, a material impact on our results of operations. We have omitted unrecognized tax benefits from this table due to the inherent uncertainty regarding the timing and recognition related to these unrecognized tax benefits. See “Note 8—Income Taxes” in the notes to the consolidated financial statements included in Item 8 for further information regarding the unrecognized tax benefits.

On July 26, 2012, we entered into an Office Lease Agreement (the “Lease”) to lease approximately 90,000 rentable square feet of an office building located in Pasadena, California. The Lease begins on August 1, 2013 and has an initial term of ten years and ten months. The Lease will allow the Company to consolidate its Pasadena, California operations into a single location. The total annual rent under the Lease ranges from approximately $2.5 million for the first year to approximately $3.4 million for the final year of the Lease. The Company has two options to extend the Lease, each for a period of five years.

During the twelve months ended December 31, 2012, the Company entered into a $1.5 million third-party software license agreement authorizing the Company to integrate database software as a component of its products through November 2015. The agreement also provides for maintenance and support over a two-year period for $0.3 million, which may be renewed by the Company at the expiration of the two-year period ending November 2014. The $1.8 million is payable in eight quarterly installments of $229,000 through January 2014. Payments of $0.9 million under the agreement were made during the twelve months ended December 31, 2012. The license, maintenance and remaining liability have been recorded on the accompanying consolidated balance sheets.

Other than the items stated above, we currently have no other material cash commitments, except our normal recurring trade payables, expense accruals, leases and license obligations, all of which are currently expected to be funded through existing working capital and future cash flows from operations.

Off-Balance Sheet Arrangements

As of December 31, 2012, we had no off-balance sheet arrangements as defined in Item 303(a)(4) of the SEC’s Regulation S-K. We do not have material relationships or transactions with persons or entities that derive benefits from their non-independent relationship with us or our related parties except as disclosed in this report.

Stock Repurchases

In August 2008, our Board of Directors authorized management to repurchase up to $8.0 million of our outstanding common stock. Under the authorization, the timing and actual number of shares subject to repurchase are at the discretion of management and are contingent on a number of factors, such as levels of cash generation from operations, market conditions and our share price. Repurchased shares are held in Treasury Stock and have not been retired. As of December 31, 2012, we had approximately $3.6 million remaining under this authorization.

In addition to the shares we have repurchased on the open market, we withheld approximately 207,000, 204,000 and 86,400 common shares in 2012, 2011 and 2010, respectively, from employees to satisfy their personal income tax withholding requirements upon the vesting of share awards issued under our equity compensation plans during the quarter. Withheld shares are held in Treasury Stock and have not been retired. The Company may engage in similar transactions from time to time related to future vesting of employee restricted stock awards.

Critical Accounting Policies and Estimates

In preparing our financial statements, we make estimates, assumptions and judgments that can have a significant impact on our net revenue, operating income or loss and net income or loss, as well as on the value of certain assets and liabilities on our balance sheet. We believe that the estimates, assumptions and judgments involved in the accounting policies described below and in Note 2 to our Consolidated Financial Statements, included herein at Item 8, have the greatest potential impact on our financial statements, so we consider them to be our critical accounting policies and estimates. There have been no significant changes in those critical accounting policies and estimates during the twelve months ended December 31, 2012.

Revenue Recognition

We generate revenues principally from the sale of EnCase®Enterprise and EnCase® Forensic software products. Revenue associated with the sale of software licenses and revenue associated with forensic hardware sales are referred to as product revenues. With the acquisition of CaseCentral in February of 2012, we now have revenue associated with cloud-based document review and production software-as-a-service which is referred to as subscription revenue. Revenues are also generated from training courses, implementation services and consulting services in which we assist customers with the performance of digital investigations and train their IT and legal professionals in the use of our software products, which we collectively refer to as services revenues. Our proprietary products are generally sold with one to three years of maintenance, which can be renewed at a stated renewal rate and is referred to as maintenance revenues.

We recognize revenue in accordance with Accounting Standards Update ("ASU") 2009-13, *Multiple-Deliverable Revenue Arrangements*, (amendment to Accounting Standards Codification ("ASC") Topic 605, *Revenue Recognition*), *Software Industry-Revenue Recognition* topic (ASC 985-605) and *Revenue Recognition* (ASC 605). While the standards govern the basis for revenue recognition, significant judgment and the use of estimates are required in connection with the allocation of revenue between product, subscription, services and maintenance revenues, as well as the amount of deferred revenue to be recognized in each accounting period. In order to determine current and deferred revenue, we make judgments and estimates with regard to future deliverable products and services and the appropriate pricing for those products and services. In general, we recognize revenue when persuasive evidence of an arrangement exists, we have delivered the product or performed the service, the fee is fixed or determinable and collectability is probable, as follows:

- Persuasive evidence of an arrangement: If we either enter into contracts or receive written purchase orders issued by a customer that legally bind us and the customer, we consider that as evidence of an arrangement.

- Delivery: We deem delivery of products to have occurred when the title and risk of ownership have passed to the buyer. Services revenue is recognized as services are performed.

- Fixed or determinable fee: We consider the fee to be fixed or determinable if the fee is not subject to refund or adjustment and the payment terms are within normal established practices. If the fee is not fixed or determinable, we recognize the revenue as amounts become due and payable, provided all other revenue recognition criteria have been met.

- Collection is deemed probable: We conduct a credit review for all significant transactions at the time of the arrangement to determine the credit-worthiness of the customer. Collection is deemed probable if we have a reasonable basis to expect that the customer will pay amounts under the arrangement as payments become due.

However, determining whether and when some of these criteria have been satisfied often involves assumptions and judgments that can have a significant impact on the timing and amount of revenue reported. For example, for multiple element arrangements we must make assumptions and judgments in order to allocate the total purchase price (irrespective of invoiced allocations) among the various elements we deliver, to determine whether undelivered services are essential to the functionality of the delivered products and services, to determine whether vendor-specific evidence ("VSOE") of fair value exists for each undelivered element and to determine whether and when each element has been delivered. The VSOE of fair value for all elements of an arrangement is based upon the normal pricing and discounting practices for those products and services when sold separately and, for software license updates and product support services, is additionally measured by the renewal rate offered to the customer. If we were to change our pricing practices or any of our other assumptions or judgments in the future, our future revenue recognition could differ significantly from our historical results.

Amounts for fees collected or invoiced and due relating to arrangements when revenue cannot be recognized are reflected on our balance sheet as deferred revenue and recognized when the product is delivered or over the period in which the service is performed, in accordance with our revenue recognition policy for such element. If we cannot objectively determine the fair value of any undelivered element included in bundled software and service arrangements, we defer revenue until all elements are delivered and services have been performed, or until fair value can objectively be determined for any remaining undelivered elements. When the fair value of a delivered element has not been established, we use the residual method to record revenue if the fair value of all undelivered elements is determinable. Under the residual method, the fair value of the undelivered elements is deferred and the remaining portion of the arrangement fee is allocated to the delivered elements and is recognized as revenue.

When arrangements involve multiple elements that qualify as separate units of accounting, the consideration is allocated at inception of the arrangement to all deliverables based on the relative selling price method in accordance with the selling price hierarchy, which includes: (1) vendor-specific objective evidence of fair value ("VSOE"), if available, (2) third-party evidence ("TPE") if VSOE is not available, or (3) best estimate of selling price ("BESP") if neither VSOE nor TPE is available.

- *VSOE*. VSOE is determined based on its historical pricing and discounting practices for the specific product or service when sold separately. In determining VSOE, we require that a substantial majority of the selling prices for these services fall within a reasonably narrow pricing range.

- *TPE*. When VSOE cannot be established for deliverables in a multiple element arrangement, judgment is applied with respect to whether we can establish a selling price based on TPE. TPE is determined based on competitor prices for similar deliverables when sold separately. Generally, our go-to-market strategy differs from our peers and our offerings contain a significant level of differentiation such that comparable pricing of services with similar functionality has not been obtained. Furthermore, we have been unable to reliably determine selling prices of similar competitive services on a stand-alone basis. As a result, we have not been able to establish selling prices based on TPE.

- *BESP*. When VSOE or TPE is unable to be established, we use BESP in our allocation of arrangement consideration. The objective of BESP is to determine the price at which we would transact a sale if the service were sold on a stand-alone basis. We determine BESP for deliverables by considering multiple factors including but not limited to prices we charge for similar offerings, market conditions, competitive landscape and pricing practices.

We have established VSOE for our proprietary products and services, but have not established VSOE or TPE for our subscription services or usage-based fee arrangements and therefore we use BESP to allocate the selling price to subscription services and usage-based fee deliverables.

Product Revenues. The timing of product revenue recognition is dependent on the nature of the product sold. We do not have any product offerings where software components and non-software components function together to deliver the tangible product's essential functionality. Product arrangements comprising multiple deliverables, including software and hardware, are generally categorized into one of the following:

- EnCase® Enterprise, EnCase® Forensic, EnCase® eDiscovery, and related products: License revenue associated with these arrangements, exclusive of amounts allocated to maintenance and other undelivered elements for which we have vendor-specific objective evidence ("VSOE") of fair value, is recognized upon delivery, provided that all other criteria for revenue recognition have been met.

- Hardware: Revenue associated with the sale of forensic hardware is recognized upon shipment to the customer, provided that all other criteria for revenue recognition have been met.

Subscription Revenues. Customers pay subscription fees to access our cloud-based document review and production software; however, they may not take possession of the software at any time during the term of the agreement. In general, we recognize revenue for subscription fees on a straight-line basis over the contract period commencing on the date the subscription is made available to the customer. Usage-based fees, which are determined monthly, are recognized when incurred.

Services and Maintenance Revenues. Services and maintenance revenue consists of professional services, training, and maintenance. Revenue from such services is generally recognized as the services are provided. Training revenues are either recognized on a per-class basis upon a participant's attendance or, for those customers who have subscribed to our Annual Training Passport program, revenue is recognized ratably over the annual period. We refer to revenue related to technical product support and software updates on a when-and-if available basis as maintenance revenue, which is recognized ratably over the applicable contractual period. We determine the amount of maintenance revenue to be deferred through reference to substantive maintenance renewal provisions contained in each arrangement. We consider substantive maintenance provisions to be provisions where the cost of the maintenance renewal, stated in the contract with our customer as a percentage of the product fee, is comparable to the normal pricing for maintenance-only renewals. Substantially all of our customers purchase maintenance support when they acquire new software licenses and substantially all renew their maintenance support contracts annually or otherwise.

Goodwill and indefinite-lived intangibles

We account for our goodwill and indefinite-lived intangible assets in accordance with *Intangibles — Goodwill and Other* (ASC 350). Goodwill represents the excess of purchase price over fair value of net assets acquired and is assigned to a reporting unit at the date the goodwill is initially recorded. Goodwill and indefinite-lived intangible assets are not amortized but evaluated for impairment annually, or whenever events or changes in circumstances indicate that the value may not be recoverable. A two-step test is performed at the reporting unit level to assess goodwill for impairment. First, the fair value of the reporting unit is compared to its carrying value. If the fair value exceeds the carrying value, the reporting unit is not impaired and no further testing is performed. The second step is performed if the carrying value exceeds the fair value. If the carrying value of the reporting unit exceeds its implied fair value, an impairment loss equal to the difference will be recorded. Indefinite-lived intangible assets are assessed for impairment by comparing the carrying value of the assets with their fair values. If the carrying value of an indefinite-lived intangible asset exceeds its implied fair value, an impairment loss equal to the difference will be recorded. Application of the impairment test requires significant judgment to estimate the fair value. Changes in estimates and assumptions could materially affect the determination of fair value and/or impairment.

We performed our annual impairment test for goodwill and indefinite-lived intangibles related to the Tableau acquisition as of April 30, 2012. Goodwill was assessed at the reporting unit level for hardware products which is one level below our reportable segment level. We determined the fair value of the reporting unit based on a discounted cash flow model. The estimated fair value of the reporting unit exceeded its carrying value by a substantial margin. We will perform our annual impairment test for goodwill related to the CaseCentral acquisition as of January 31, 2013.

Share-Based Compensation

We use the Black-Scholes option pricing model to determine the grant date fair value of share-based payments and recognize that cost, net of an estimated forfeiture rate, as compensation expense on a straight-line basis over the vesting period. The determination of the grant date fair value of share-based awards using that model is affected by our stock price as well as assumptions regarding a number of complex and subjective variables. These variables include the estimated number of years that we expect employees to hold their stock options (the option “term”) and our expected stock price volatility, risk-free interest rates and dividends to be paid on our stock over that term.

The expected term (life) of stock option awards has been calculated using the “simplified method” because we lacked sufficient historical data to provide a reasonable basis to estimate the expected term. We lacked this historical data because of two factors: first, our 2004 Equity Incentive Plan (the “Plan”) was adopted in 2004 and we do not have a sufficient history of exercises and forfeitures over the typical 10-year life of our awards to predict future option holder behavior, which is critical in estimating an expected term for our options, and, second, we believe that our December 2006 initial public offering has likely changed the historical patterns that were experienced during the brief period of time from the Plan’s adoption to our initial public offering. The volatility of our common stock is estimated at the date of grant based on a weighted-average of the implied volatility of publicly traded 30-day to 270-day options on the common stock of a select peer group of similar companies (“Similar Companies”), the historical volatility of the common stock of Similar Companies and, beginning in late 2007, the historical volatility of our common stock. The risk-free interest rate used in option valuation is based on the implied yield in effect at the time of each option grant, based on US Treasury zero-coupon issues with equivalent expected terms. We use a dividend yield of zero in the Black-Scholes model, as we have no intention to pay any cash dividends on our common stock in the foreseeable future. *Compensation-Stock Compensation* also requires that we estimate forfeitures at the time of grant and revise those estimates in subsequent periods if actual forfeitures differ from those estimates. We use historical data to estimate pre-vesting option forfeitures and record share-based compensation expense only for those awards that are expected to vest. Quarterly changes in the estimated forfeiture rate can potentially have a significant effect on reported share-based compensation, as the cumulative effect of adjusting the forfeiture rate for all expense amortization after January 1, 2006 is recognized in the period the forfeiture estimate is changed.

If we change the terms of our employee share-based compensation programs, refine future assumptions or if we change to other acceptable valuation models, the stock-based compensation expense that we record in future periods may differ significantly from historical trends and could materially affect our results of operations. As of December 31, 2012, there was approximately $223,000 of total unrecognized share-based compensation cost related to stock options that is expected to be recognized over a weighted-average period of 1.2 years and approximately $17.0 million of total unrecognized share-based compensation cost related to restricted stock awards that is expected to be recognized over a weighted-average period of 3.0 years. We expect to record approximately $6.4 million in share-based compensation in 2013 related to options and restricted stock awards outstanding at December 31, 2012. See Note 13 to our Consolidated Financial Statements for further information regarding share-based compensation.

Allowance for Doubtful Accounts

We maintain an allowance for doubtful accounts for estimated losses resulting from the inability of our customers to make required payments. The allowance is established through a provision for bad debt expense. We determine the adequacy of this allowance by evaluating individual customer accounts receivable, through consideration of the customer's financial condition, credit history and current economic conditions. In addition, we analyze our historical credit loss history and apply these loss rates to our current accounts receivable balances to verify the reasonableness of our allowance. If the financial condition of our customers were to deteriorate, resulting in an impairment of their ability to make payments, additional allowances may be required in the future, which would result in increased general and administrative expense.

Accounting for Income Taxes

In preparing our consolidated financial statements, we estimate our income tax liability in each of the foreign and domestic jurisdictions in which we operate by estimating our actual current tax exposure and assessing temporary differences resulting from differing treatment of items for tax and financial statement purposes. Our judgments, assumptions and estimates relative to the current provision for income tax take into account current tax laws, our interpretation of current tax laws and possible outcomes of audits conducted by foreign and domestic tax authorities. Reserves for income taxes to address potential exposures involving tax positions that could be challenged by tax authorities will be established if necessary. Although we believe our judgments, assumptions and estimates are reasonable, changes in tax laws or our interpretation of tax laws and the resolution of any future tax audits could significantly impact the amounts provided for income taxes in our consolidated financial statements.

We calculate our current and deferred tax provisions based on estimates and assumptions that could differ from the actual results reflected in income tax returns filed during the subsequent year. Adjustments based on filed returns are generally recorded in the period when the tax returns are filed and the global tax implications are known, which can significantly impact our effective tax rate. Tax law and rate changes are reflected in the income tax provision in the period in which such changes are enacted.

We record a valuation allowance to reduce our deferred tax assets to the amount that is more likely than not to be realized. We consider all available evidence, both positive and negative, including historical levels of income, expectations and risks associated with estimates of future taxable income and ongoing prudent and feasible tax planning strategies in assessing the need for a valuation allowance. In the event we were to determine that we would not be able to realize all or part of our net deferred tax assets in the future, an adjustment to the deferred tax assets would be charged to earnings in the period in which we make such a determination. Likewise, if we later determine that it is more likely than not that the net deferred tax assets would be realized, we would reverse the applicable portion of the previously provided valuation allowance.

On January 1, 2007, we adopted the accounting for uncertainty in income taxes which contains a two-step approach to recognizing and measuring uncertain tax positions taken or expected to be taken in a tax return by determining if the weight of available evidence indicates that it is more likely than not that the tax position will be sustained on audit, including resolution of any related appeals or litigation processes. The second step is to measure the tax benefit as the largest amount that is more than 50% likely to be realized upon ultimate settlement. The standard also provides guidance on de-recognition, classification, accounting in interim periods and disclosure requirements for tax contingencies.

Commitments and Contingencies

We are subject to certain legal proceedings, as well as demands, claims and threatened litigation that arise in the normal course of our business. We periodically evaluate all pending or threatened contingencies and commitments, if any, that are reasonably likely to have a material adverse effect on our operations or financial position. We assess the probability of an adverse outcome and determine if it is remote, reasonably possible or probable as defined in accordance with the provisions of *Contingencies (ASC 450).* If management determines that it is probable that an asset had been impaired or a liability had been incurred at the date of our financial statements, and the amount of the loss, or the range of probable loss can be reasonably estimated, we record an accrued liability and an expense for the estimated loss. If no accrual is made for a loss contingency because one or both of the conditions pursuant to *Contingencies* are not met, but the probability of an adverse outcome is at least reasonably possible, we would disclose the nature of the contingency, if material, and provide an estimate of the possible loss or range of loss, or state that such an estimate cannot be made.

Significant judgment is required in both the determination of probability and the determination of whether an exposure is reasonably estimable. Because of uncertainties related to these matters, any accruals recorded are based on the best information available at the time. As additional information becomes available, we would reassess the potential liability related to our pending claims and litigation and may revise our estimates favorably or unfavorably. Potential legal liabilities and the revision of estimates of potential legal liabilities could have a material impact on our financial position and results of operations.

Recent Accounting Pronouncements

Testing Indefinite-Lived Intangible Assets for Impairment: In July 2012, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update No. 2012-02, *Intangibles—Goodwill and Other (Topic 350)—Testing Indefinite-Lived Intangible Assets for Impairment* (ASU 2012-02), to allow entities to use a qualitative approach to test indefinite-lived intangible assets for impairment. ASU 2012-02 permits an entity to first perform a qualitative assessment to determine whether it is more likely than not that the fair value of an indefinite-lived intangible asset is less than its carrying value. If it is concluded that this is the case, it is necessary to perform the currently prescribed quantitative impairment test by comparing the fair value of the indefinite-lived intangible asset with its carrying value. Otherwise, the quantitative impairment test is not required. ASU 2012-02 is effective for us beginning in 2013 and earlier adoption is permitted. We are currently evaluating the impact of our pending adoption of ASU 2012-02 on our consolidated financial statements.

Non-Audit Services of Independent Registered Public Accounting Firm

Our Audit Committee of the Board of Directors has pre-approved all non-audit services including tax compliance services.

Item 7A. Quantitative and Qualitative Disclosures about Market Risk

Market Risk. Market risk represents the risk of loss that may impact our financial position due to adverse changes in the financial market prices and rates. Our market risk exposure is primarily a result of fluctuations in foreign exchange rates, interest rates and credit risk. We do not hold or issue financial instruments for trading purposes.

Foreign Currency Risk. To date, substantially all of our international sales have been denominated in US dollars, and therefore, the majority of our revenues are not subject to foreign currency risk. Our operating expenses and cash flows are subject to fluctuations due to changes in foreign currency exchange rates, but historically have had relatively little impact on our operating results and cash flows. A strengthening of the dollar could make our products and services less competitive in foreign markets and therefore could reduce our revenues. In the future, an increased portion of our revenues and costs may be denominated in foreign currencies. We do not enter into derivative instrument transactions for trading or speculative purposes.

Interest Rate Risk. Our investment portfolio, consisting of highly liquid debt instruments of the US government at December 31, 2012, is subject to interest rate risk. The fair value of our investment portfolio would not be significantly impacted by either a 100 basis point increase or decrease in interest rates due mainly to the short-term nature of the major portion of our investment portfolio.

Item 8. Financial Statements and Supplementary Data

Our financial statements and supplementary data are included at the end of this report, beginning on page F-1.

Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure

None.

Item 9A. Controls and Procedures

Management, with the participation of the President and Chief Executive Officer and Chief Financial Officer, has performed an evaluation of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) of the Securities Exchange Act of 1934). This evaluation includes consideration of the controls, processes and procedures that are designed to ensure that information required to be disclosed by us in the reports we file under the Securities Exchange Act of 1934 is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission's rules and forms and that such information is accumulated and communicated to our management, including our President and Chief Executive Officer and Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosure. Based on such evaluation, our President and Chief Executive Officer and Chief Financial Officer concluded that, as of December 31, 2012, our disclosure controls and procedures were effective.

Management Report on Internal Control over Financial Reporting

Management is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rules 13a-15(f) and 15d-15(f) under the Securities Exchange Act of 1934. Our internal control over financial reporting is designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. Our internal control over financial reporting includes those policies and procedures that:

(i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of our assets;

(ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that our receipts and expenditures are being made only in accordance with authorizations of our management and directors; and

(iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of our assets that could have a material effect on the financial statements.

There are inherent limitations in the effectiveness of any system of internal control, including the possibility of human error and the circumvention or overriding of controls. Accordingly, even an effective internal control system may not prevent or detect misstatements and can provide only reasonable assurance with respect to financial statement preparation. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions or that the degree of compliance with the policies or procedures may deteriorate.

Management assessed the effectiveness of our internal control over financial reporting as of December 31, 2012, utilizing the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in *Internal Controls—Integrated Framework.* Based on the results of this assessment, management (including our President and Chief Executive Officer and our Chief Financial Officer) has concluded that, as of that date, our internal control over financial reporting was effective.

Our management has not yet conducted an assessment of the internal control over financial reporting of CaseCentral. We completed the acquisition of CaseCentral on February 21, 2012, and it was not possible, given the timing of the acquisition, to conduct an assessment of CaseCentral's internal control over financial reporting in the period between the completion of the acquisition and the date of our management's assessment of our internal control over financial reporting. Accordingly, our conclusion in this Annual Report on Form 10-K regarding the effectiveness of our internal control over financial reporting as of December 31, 2012 does not include the internal control over financial reporting of CaseCentral. Included in our consolidated financial statements for the year ended December 31, 2012 were approximately $14.2 million of revenues from the sale of CaseCentral products, or 11% of our net revenues, and $1.3 million of our net loss was attributable to the operations of CaseCentral. We intend to complete our evaluation of CaseCentral's internal control over financial reporting within the required timeframe of one year from the date of acquisition.

The attestation report concerning the effectiveness of our internal control over financial reporting as of December 31, 2012, issued by our independent registered public accounting firm, Deloitte & Touche LLP, appears on page F-2 of our Annual Report on Form 10-K.

Changes in Internal Control over Financial Reporting

There have been no changes in our internal control over financial reporting during the fourth quarter of fiscal 2012 that have materially affected, or are reasonably likely to materially affect, our internal controls over financial reporting.

Item 9B. Other Information

None.

PART III

Item 10. Directors, Executive Officers and Corporate Governance

The information required by this item will be set forth in the Proxy Statement or Form 10-K/A and is incorporated in this report by reference.

Item 11. Executive Compensation

The information required by this item will be set forth in the Proxy Statement or Form 10-K/A and is incorporated in this report by reference.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters

The information required by this item will be set forth in the Proxy Statement or Form 10-K/A and is incorporated in this report by reference.

Item 13. Certain Relationships and Related Transactions, and Director Independence

The information required by this item will be set forth in the Proxy Statement or Form 10-K/A and is incorporated in this report by reference.

Item 14. Principal Accountant Fees and Services

The information required by this item will be set forth in the Proxy Statement or Form 10-K/A and is incorporated in this report by reference.

PART IV

Item 15. Exhibits and Financial Statement Schedules

The following documents are filed as part of this report:

Financial statement schedules other than those listed above have been omitted because they are either not required, not applicable or the information is otherwise included.

(3) List of exhibits required by Item 601 of Regulation S-K. See part (b) below.

(b) Exhibits:

The following exhibits are filed or furnished herewith or are incorporated by reference to exhibits previously filed with the SEC (the original Exhibit number is included parenthetically).

Exhibit Number	Description of Documents
3.1(2)	Amended and Restated Certificate of Incorporation of Guidance Software, Inc. (Exhibit 3.2)
3.2(13)	Third Amended and Restated Bylaws of Guidance Software, Inc. (Exhibit 3.4)
4.1(1)	Investor’s Rights Agreement, dated as of September 26, 2003, by and between Guidance Software, Inc. and Matthew Healey. (Exhibit 4.1)
10.1(1)	Restated Lease Agreement, dated as of April 1, 2003, by and between Guidance Software, Inc. and The Walnut Plaza. (Exhibit 10.1)
10.2(9)	Guidance Software, Inc. Second Amended and Restated 2004 Equity Incentive Plan. (Exhibit 10.27) #
10.3(10)	Guidance Software, Inc. Amended and Restated Executive Retention and Severance Plan, dated as of December 19, 2008. (Exhibit 10.3) #
10.4(12)	Amended and Restated Employment Agreement, dated February 23, 2011, by and between Guidance Software, Inc. and Victor Limongelli. #
10.5(3)	Amended and Restated Stock Option Agreement, dated January 19, 2008, by and between Guidance Software, Inc. and Victor Limongelli. (Exhibit 10.9) #
10.6(3)	Stock Option Agreement, dated January 19, 2008, by and between Guidance Software, Inc. and Victor Limongelli. (Exhibit 10.10) #
10.7(3)	Restricted Stock Cancellation Agreement, dated January 19, 2008, by and between Guidance Software, Inc. and Victor Limongelli. (Exhibit 10.11) #
10.8(3)	Restricted Stock Agreement, dated January 19, 2008, by and between Guidance Software, Inc. and Victor Limongelli. (Exhibit 10.12) #
10.9(4)	Form of Offer Letter, dated August 5, 2008, by and between Guidance Software, Inc. and Barry J. Plaga. (Exhibit 99.2) #
10.10(2)	Form of Tax Matters Agreement. (Exhibit 10.10)
10.11	Oracle PartnerNetwork Embedded Software License Distribution Agreement dated as of November 28, 2008, by and between Oracle USA, Inc. and Guidance Software, Inc., as amended February 29, 2012.
10.12(2)	Form of Indemnification Agreement. (Exhibit 10.13)
10.13(14)	Form of Second Amendment to Guidance Software, Inc. Second Amended and Restated 2004 Equity Incentive Plan. (Appendix 1) #
10.14(6)	Form of Amendment to Employment Letter (the Non-Participant Amendment). (Exhibit 99.1) #
10.15(6)	Form of Amendment to Employment Letter (the Participant Amendment). (Exhibit 99.2) #
10.16(7)	Form of Amendment to Restricted Stock Agreement. (Exhibit 99.1) #
10.17(10)	Form of Second Amended and Restated 2004 Equity Incentive Plan Restricted Stock Agreement. (Exhibit 10.21) #
10.18(10)	Amendment to Offer Letter, dated December 18, 2008, by and between Guidance Software, Inc. and Barry J. Plaga.(Exhibit 10.22) #
10.19(10)	Employment Agreement dated August 1, 2004 by and between Guidance Software, Inc. and Mark E. Harrington. (Exhibit 10.23) #
10.20(10)	Employment Agreement dated November 3, 2006 by and between Guidance Software, Inc. and Larry A. Gill. (Exhibit 10.24) #
10.21(15)	Separation Agreement and General Release, dated July 5, 2012, by and between Guidance Software, Inc. and Larry A. Gill. (Exhibit 10.1) #
10.22(16)	Offer Letter, dated March 9, 2009, by and between Guidance Software, Inc. and Rasmus van der Colff. (Exhibit 10.22) #
10.23(16)	Employment Agreement, dated March 9, 2009, by and between Guidance Software, Inc. and Rasmus van der Colff. (Exhibit 10.23) #
10.24(17)	Loan and Security Agreement, dated July 12, 2012, by and between Guidance Software, Inc. and Bank of the West. (Exhibit 10.1)
10.25(18)	Agreement and Plan of Merger, dated as of February 7, 2012, by and among CaseCentral, Inc., Guidance Software, Inc., Cloud Acquisition Corp. and Shareholder Representative Services, LLC. (Exhibit 2.1)
10.26(19)	Office Lease Agreement by and between 1055 East Colorado — Pasadena, CA L.P. and Guidance Software, Inc., dated July 26, 2012. (Exhibit 10.1)

10.27	Employment Agreement dated June 1, 2009 by and between Guidance Software, Inc. and Amanda Berger. #
10.28	Amendment to Employment Terms, dated November 5, 2009 by and between Guidance Software, Inc. and Amanda Berger. #
10.29	Offer Letter, dated April 15, 2009, by and between Guidance Software, Inc. and Amanda Berger. #
21.1	Subsidiaries of Registrant
23.1	Consent of Independent Registered Public Accounting Firm
31.1	Certification of Chief Executive Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2	Certification of Chief Financial Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1	Certification of Chief Executive Officer Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 †
32.2	Certification of Chief Financial Officer Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 †
101.INS	XBRL Instance Document
101.SCH	XBRL Taxonomy Extension Schema Document
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document
101.LAB	XBRL Taxonomy Extension Label Linkbase Document
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document

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(1) Incorporated by reference to Guidance Software Inc.'s Form S-1 Registration Statement (File No. 333-137381) filed on September 15, 2006.
(2) Incorporated by reference to Amendment No. 4 to Guidance Software Inc.'s Form S-1 Registration Statement (on Form S-1/A) filed on November 22, 2006.
(3) Incorporated by reference to Guidance Software Inc.'s Annual Report on Form 10-K for the year ended December 31, 2007.
(4) Incorporated by reference to Guidance Software Inc.'s Current Report on Form 8-K filed on August 7, 2008.
(5) Incorporated by reference to Guidance Software Inc.'s Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2009.
(6) Incorporated by reference to Guidance Software Inc.'s Current Report on Form 8-K filed on November 13, 2009.
(7) Incorporated by reference to Guidance Software Inc.'s Current Report on Form 8-K filed on November 24, 2009.
(8) Incorporated by reference to Guidance Software Inc.'s Annual Report on Form 10-K for the year ended December 31, 2008.
(9) Incorporated by reference to Guidance Software Inc.'s Definitive Proxy Statement filed on March 30, 2010.
(10) Incorporated by reference to Guidance Software Inc.'s Annual Report on Form 10-K for the year ended December 31, 2009.
(11) Incorporated by reference to Guidance Software Inc.'s Quarterly Report Form 10-Q for the quarterly period ended March 31, 2010.
(12) Incorporated by reference to Guidance Software, Inc.'s Current Report on Form 8-K filed on March 1, 2011.
(13) Incorporated by reference to Guidance Software, Inc.'s Current Report on Form 8-K filed on March 18, 2011.
(14) Incorporated by reference to Guidance Software, Inc.'s Definitive Proxy Statement filed on March 23, 2012.
(15) Incorporated by reference to Guidance Software, Inc.'s Current Report on Form 8-K filed on July 9, 2012.
(16) Incorporated by reference to Guidance Software, Inc.'s Annual Report on Form 10-K for the year ended December 31, 2011.
(17) Incorporated by reference to Guidance Software, Inc.'s Current Report on Form 8-K filed on July 17, 2012.
(18) Incorporated by reference to Guidance Software, Inc.'s Current Report on Form 8-K filed on February 8, 2012.
(19) Incorporated by reference to Guidance Software, Inc.'s Current Report on Form 8-K filed on July 27, 2012.

# Indicates management contract or compensatory plan.
* Incorporated by reference to Guidance Software Inc.'s Form 10-K for the year ended December 31, 2008. Portions of this exhibit have been redacted pursuant to a confidential treatment request filed with the SEC.
† These certifications are being furnished solely to accompany this Annual Report pursuant to 18 U.S.C. Section 1350, and are not being filed for purposes of Section 18 of the Securities Exchange Act of 1934 and are not to be incorporated by reference into any filing of Guidance Software, Inc., whether made before or after the date hereof, regardless of any general incorporation language in such filing.

INDEX TO CONSOLIDATED FINANCIAL STATEMENTS

Schedules not listed above have been omitted since they are not applicable or are not required, or the information required to be set therein is included in the Consolidated Financial Statements or Notes thereto.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors and Stockholders of
Guidance Software, Inc.
Pasadena, California

We have audited the accompanying consolidated balance sheets of Guidance Software, Inc. and subsidiaries (the "Company") as of December 31, 2012 and 2011, and the related consolidated statements of operations, stockholders' equity, and cash flows for each of the three years in the period ended December 31, 2012. Our audits also included the financial statement schedule listed in the Index at Item 15. We also have audited the Company's internal control over financial reporting as of December 31, 2012, based on criteria established in *Internal Control—Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission. As described in the accompanying "Management Report on Internal Control Over Financial Reporting," management excluded from its assessment the internal control over financial reporting at CaseCentral, Inc., which was acquired on February 21, 2012 and whose financial statements include $14.2 million, or 11% of total revenues and $1.3 million, or 65.6% of net loss of the consolidated financial statement amounts as of and for the year ended December 31, 2012. Accordingly, our audit did not include the internal control over financial reporting at CaseCentral, Inc. The Company's management is responsible for these financial statements and financial statement schedule, for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying "Management Report on Internal Control over Financial Reporting." Our responsibility is to express an opinion on these financial statements and financial statement schedule and an opinion on the Company's internal control over financial reporting based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement and whether effective internal control over financial reporting was maintained in all material respects. Our audits of the financial statements included examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audits also included performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinions.

A company's internal control over financial reporting is a process designed by, or under the supervision of, the company's principal executive and principal financial officers, or persons performing similar functions, and effected by the company's board of directors, management, and other personnel to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of the inherent limitations of internal control over financial reporting, including the possibility of collusion or improper management override of controls, material misstatements due to error or fraud may not be prevented or detected on a timely basis. Also, projections of any evaluation of the effectiveness of the internal control over financial reporting to future periods are subject to the risk that the controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Guidance Software, Inc. and subsidiaries as of December 31, 2012 and 2011, and the results of their operations and their cash flows for each of the three years in the period ended December 31, 2012, in conformity with accounting principles generally accepted in the United States of America. Also, in our opinion, such financial statement schedule, when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein. Also, in our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2012, based on the criteria established in *Internal Control—Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission.

/s/ Deloitte & Touche LLP
Los Angeles, California
February 21, 2013

GUIDANCE SOFTWARE, INC.

CONSOLIDATED BALANCE SHEETS
(in thousands, except share data)

	December 31, 2012	December 31, 2011
ASSETS		
Current assets:		
Cash and cash equivalents	$ 32,606	$ 37,048
Trade receivables, net of allowance for doubtful accounts of $437 and $520, respectively	23,558	19,505
Inventory	2,008	1,394
Prepaid expenses and other current assets	3,106	2,209
Total current assets	61,278	60,156
Long-term assets:		
Property and equipment, net	10,227	9,273
Intangible assets, net	12,411	3,754
Goodwill, net	14,632	3,711
Other assets	2,026	434
Total long-term assets	39,296	17,172
Total assets	$ 100,574	$ 77,328
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$ 3,058	$ 2,895
Accrued liabilities	12,929	9,774
Capital lease obligations	393	58
Deferred revenues	37,337	33,630
Total current liabilities	53,717	46,357
Long-term liabilities:		
Rent incentives	730	498
Capital lease obligations	181	55
Deferred revenues	6,115	5,952
Contingent earn-out, net of current portion	569	—
Deferred tax liabilities	242	155
Total long-term liabilities	7,837	6,660
Commitments and contingencies (Notes 11 and 17)		
Stockholders' equity:		
Preferred stock, $0.001 par value: 10,000,000 shares authorized; no shares issued or outstanding	—	—
Common stock, $0.001 par value; 100,000,000 shares authorized; 26,776,000 and 24,631,000 shares issued, respectively; 25,281,000 and 23,342,000 shares outstanding, respectively	25	23
Additional paid-in capital	93,037	74,297
Treasury stock, at cost, 1,495,000 and 1,288,000 shares, respectively	(8,644)	(6,594)
Accumulated deficit	(45,398)	(43,415)
Total stockholders' equity	39,020	24,311
Total liabilities and stockholders' equity	$ 100,574	$ 77,328

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

GUIDANCE SOFTWARE, INC.

CONSOLIDATED STATEMENTS OF OPERATIONS
(in thousands, except per share data)

	Year Ended December 31,		
	2012	2011	2010
Revenues:			
Product revenue	$ 56,116	$ 52,345	$ 43,930
Subscription revenue	9,202	—	—
Services and maintenance revenue	64,152	52,256	47,970
Total revenues	129,470	104,601	91,900
Cost of revenues (excluding amortization and depreciation, shown below):			
Cost of product revenue	7,982	5,973	4,937
Cost of subscription revenue	3,722	—	—
Cost of services and maintenance revenue	24,733	22,453	19,874
Total cost of revenues (excluding amortization and depreciation, shown below)	36,437	28,426	24,811
Operating expenses:			
Selling and marketing	42,278	36,992	35,947
Research and development	24,459	18,882	17,012
General and administrative	21,224	16,432	13,985
Depreciation and amortization	6,859	5,424	4,700
Total operating expenses	94,820	77,730	71,644
Operating income (loss)	(1,787)	(1,555)	(4,555)
Other income and expense:			
Interest income	39	53	78
Interest expense	(72)	(9)	(5)
Other income, net	25	20	1
Total other income and expense	(8)	64	74
Income (loss) before income taxes	(1,795)	(1,491)	(4,481)
Income tax provision (benefit)	188	158	121
Net income (loss)	$ (1,983)	$ (1,649)	$ (4,602)
Net income (loss) per common share—basic	$ (0.08)	$ (0.07)	$ (0.20)
Net income (loss) per common share—diluted	$ (0.08)	$ (0.07)	$ (0.20)
Shares used in the calculation of net income (loss) per common share—basic	24,577	23,252	23,024
Shares used in the calculation of net income (loss) per common share—diluted	24,577	23,252	23,024

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

GUIDANCE SOFTWARE, INC.

CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY
For the Year Ended December 31, 2010, 2011 and 2012
(in thousands)

	Common Stock		Additional Paid-in	Treasury Stock		Accumulated	Total Stockholders' (Deficit)
	Shares	Amount	Capital	Shares	Amount	Deficit	Equity
Balances at December 31, 2009	22,975	23	62,683	531	(2,080)	(37,164)	23,462
Share-based compensation	—	—	5,187	—	—	—	5,187
Exercise of stock options	95	—	441	—	—	—	441
Vesting of restricted stock awards	272	—	—	—	—	—	—
Common stock repurchased or withheld	(366)	—	—	366	(1,959)	—	(1,959)
2010 net loss	—	—	—	—	—	(4,602)	(4,602)
Balances at December 31, 2010	22,976	23	68,311	897	(4,039)	(41,766)	22,529
Share-based compensation	—	—	5,532	—	—	—	5,532
Exercise of stock options	99	—	454	—	—	—	454
Vesting of restricted stock awards	658	—	—	—	—	—	—
Common stock repurchased or withheld	(391)	—	—	391	(2,555)	—	(2,555)
2011 net loss	—	—	—	—	—	(1,649)	(1,649)
Balances at December 31, 2011	23,342	$ 23	$ 74,297	1,288	$ (6,594)	$ (43,415)	$ 24,311
Stock issued in acquisition	850	1	9,497				9,498
Share-based compensation			5,851				5,851
Exercise of stock options	647	1	3,392				3,393
Vesting of restricted stock awards	649						—
Common stock repurchased or withheld	(207)			207	(2,050)		(2,050)
2012 net loss						(1,983)	(1,983)
Balances at December 31, 2012	25,281	$ 25	$ 93,037	1,495	$ (8,644)	$ (45,398)	$ 39,020

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

GUIDANCE SOFTWARE, INC.

CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)

	Year Ended December 31, 2012	2011	2010
Operating Activities:			
Net loss	$ (1,983)	$ (1,649)	$ (4,602)
Adjustments to reconcile net loss to net cash provided by operating activities:			
Depreciation and amortization	6,859	5,424	4,700
Benefit for doubtful accounts	(47)	—	(48)
Share-based compensation	5,851	5,532	5,187
Deferred taxes	86	94	61
Loss on disposal of assets	85	—	35
Changes in operating assets and liabilities:			
Trade receivables	(933)	(3,161)	1,159
Inventory	(614)	(407)	17
Prepaid expenses and other assets	131	(275)	25
Accounts payable	(285)	402	(775)
Accrued liabilities	(326)	1,795	2,351
Deferred revenues	570	5,967	(2,474)
Net cash provided by operating activities	9,394	13,722	5,636
Investing Activities:			
Purchase of property and equipment	(4,022)	(2,116)	(2,317)
Proceeds from sale of property and equipment	—	—	1
Acquisition, net of cash acquired	(9,642)	—	(10,686)
Net cash used in investing activities	(13,664)	(2,116)	(13,002)
Financing Activities:			
Proceeds from the exercise of stock options	3,393	454	441
Common stock repurchased or withheld	(2,050)	(2,555)	(1,959)
Principal payments on capital lease obligations	(1,515)	(78)	(80)
Net cash used in financing activities	(172)	(2,179)	(1,598)
Net (decrease) increase in cash and cash equivalents	(4,442)	9,427	(8,964)
Cash and cash equivalents, beginning of year	37,048	27,621	36,585
Cash and cash equivalents, end of year	$ 32,606	$ 37,048	$ 27,621
Supplemental disclosures of cash flow information:			
Interest expense paid	$ 68	$ 2	$ 3
Income taxes paid	$ 47	$ 31	$ 117
Supplemental disclosures of non-cash investing and financing activities:			
Purchase of equipment included in accounts payable and accrued expenses	$ 202	$ 75	$ 152
Capital lease obligations incurred to acquire assets	$ 131	$ —	$ 101
Third party software financing	$ 1,800	$ —	$ —
Contingent consideration included in the purchase price of acquisition	$ 600	$ —	$ —
849,554 shares of common stock issued as part of the purchase price of acquisition	$ 9,498	$ —	$ —

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

GUIDANCE SOFTWARE, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Note 1. Description of the Business

General

Guidance Software, Inc. was incorporated in the state of California in 1997 and reincorporated in Delaware on December 11, 2006. Guidance and its subsidiaries are collectively referred to herein as "Guidance," "we" or the "Company." Headquartered in Pasadena, California, Guidance is a global provider of software and hardware solutions to conduct digital investigations.

Our main products are: *EnCase® Enterprise*, a comprehensive, network-enabled digital investigative solution that enables corporations and government agencies to search, collect, preserve and analyze data across all of the servers, desktops and laptops that comprise their entire network from a single location; *EnCase® eDiscovery*, which automates the search, collection, preservation and processing of electronically stored information for litigation and compliance purposes; *EnCase® Cybersecurity*, which provides the ability to identify potential threats and analyze them, identify other advanced hacking techniques that evade traditional network or host-based defenses, provides investigative capabilities that target confidential or sensitive data, and mitigates risk by removing sensitive data from unauthorized locations; *EnCase® Forensic*, a desktop-based product primarily used by law enforcement and government agencies for collecting, preserving, analyzing and authenticating electronic computer forensic data for use in criminal and civil court proceedings. In 2009, we launched *EnCase® Portable*, a data acquisition solution that enables customers to leverage the search and acquisition capabilities of EnCase® software in a wide range of field applications through the use of a portable device and in May 2010, we added a family of data acquisition forensic hardware products including forensic duplicators, multiple write blockers and other hardware through our acquisition of Tableau, LLC ("Tableau"). In February 2012, we added cloud-based document review and production software-as-a-service for corporations and law firms through our acquisition of CaseCentral, Inc.. In addition, we complement our offerings with a comprehensive array of professional and training services including technical support and maintenance services to help our customers implement our solutions, conduct investigations and train their IT and legal professionals to effectively and efficiently use our products.

Note 2. Summary of Significant Accounting Policies

Basis of Presentation

The accompanying consolidated financial statements have been prepared in accordance with generally accepted accounting principles in the United States ("GAAP"), and include the accounts of Guidance and its wholly owned subsidiaries. All intercompany accounts and transactions have been eliminated.

Prior Period Adjustment

The Company recorded out-of-period adjustments which decreased the net loss and the deferred revenue balance by $531,000, in the third quarter of 2010. The adjustments relate to deferred revenue of $408,000 and bad debt recoveries of $123,000 that should have been recognized in income in prior periods. Had the Company recorded these adjustments in the appropriate periods, net loss for 2009, 2008, and 2007 would have been reduced by $23,000, $167,000, $145,000, respectively, and the opening accumulated deficit as of January 1, 2007 would have been reduced by $196,000.

The Company and the Audit Committee have determined that these adjustments are not material to the prior periods, the trend of earnings, and the annual 2010 consolidated financial statements.

Use of Estimates and Assumptions

The preparation of financial statements in conformity with GAAP requires management to make estimates and judgments that affect the reported amounts of assets, liabilities, revenues and expenses, and related disclosure of contingent assets and liabilities. On an ongoing basis, we evaluate these estimates, including those related to revenue recognition, share-based compensation, bad debts, income taxes, commitments, contingencies and litigation. We base our estimates on historical experience and on various other assumptions that are believed to be reasonable under the circumstances. Actual results may differ from these estimates.

Cash and Cash Equivalents

We invest excess cash in money market funds and highly liquid debt instruments of the US government and its agencies. Highly liquid investments with stated maturities of three months or less from the date of purchase are classified as cash and cash equivalents.

Fair Value of Financial Instruments

The carrying amounts of cash equivalents, accounts receivable, and accounts payable approximate fair value because of the short-term maturities of these instruments. Based on borrowing rates currently available to us for borrowings with similar terms, the carrying values of our capital lease obligations also approximate fair value.

Trade Receivables

Trade receivables are carried at original invoice amount less an allowance for doubtful accounts. The allowance is established through a provision for bad debt expense. We determine the adequacy of this allowance by evaluating individual customer accounts receivable, through consideration of the customer's financial condition, credit history and current economic conditions. In addition, we analyze our historical credit loss history and apply these loss rates to our current accounts receivable balances to verify the reasonableness of our allowance. Trade receivables are written off when deemed uncollectible. A trade receivable is generally considered past due if any portion of the receivable balance is outstanding for more than 30 days unless alternate terms are provided.

Inventory

Inventory is comprised of hardware components, packaged software components and finished goods and is valued at the lower of cost or market, using the weighted average cost method. We conduct quarterly inventory reviews for obsolescence, and inventory considered unlikely to be sold is adjusted to net realizable value.

Property and Equipment

The cost of property and equipment, less applicable estimated residual values, is depreciated over the shorter of their estimated useful lives or the life of the lease (if applicable), on the straight-line method, from the date the specific asset is completed, installed, and ready for use, as follows:

	Estimated Useful Life
Leasehold improvements	Shorter of life of asset or lease term
Furniture and office equipment	5 years
Computer hardware and software	3-5 years

Also included in property and equipment is software maintained for internal use. Internally used software, whether purchased or developed, is capitalized and amortized using the straight-line method over an estimated useful life of two to five years.

Impairment of Long-Lived Assets

We review our long-lived assets in accordance with *Property, Plant and Equipment (ASC 360)*. Long-lived assets are reviewed for impairment whenever events or changes in circumstances indicate that 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 the assets to future net cash flows (undiscounted and without interest) expected to be generated by the asset. If such assets are considered to be impaired, the impairment to be recognized is measured by the amount by which the carrying amount of the assets exceeds the fair value of the assets. Assets to be disposed of are reported at the lower of the carrying amount or fair value less costs to sell. To date, we have not determined that any of our long-lived assets have been impaired.

Amortization of Intangible Assets with Finite Lives

Intangible assets with finite lives are carried at the fair value of such assets at the time of acquisition. With the exception of our customer relationships intangible assets, which are amortized on a double-declining basis, the acquisition date fair value of such assets are amortized on a straight-line basis over the estimated useful lives.

Goodwill and Indefinite-Lived Intangibles

Goodwill represents the excess of purchase price over fair value of net assets acquired and is assigned to a reporting unit at the date the goodwill is initially recorded. Goodwill and indefinite-lived intangible assets are not amortized but evaluated for impairment annually, or whenever events or changes in circumstances indicate that the value may not be recoverable. A two-step test is performed at the reporting unit level to assess goodwill for impairment. First, the fair value of the reporting unit is compared to its carrying value. If the fair value exceeds the carrying value, the reporting unit is not impaired and no further testing is performed. The second step is performed if the carrying value exceeds the fair value. If the carrying value of the reporting unit exceeds its implied fair value, an impairment loss equal to the difference will be recorded. Indefinite-lived intangible assets are assessed for impairment by comparing the carrying value of the assets with their fair values. If the carrying amounts of the indefinite-lived intangible assets exceed their implied fair value, an impairment loss equal to the difference will be recorded.

Application of the impairment test requires significant judgment to estimate the fair value. Changes in estimates and assumptions could materially affect the determination of fair value and/or impairment.

Concentrations of Credit Risk

Financial instruments that potentially subject us to significant concentrations of credit risk consist primarily of cash and cash equivalents and accounts receivable. We restrict our investments in cash and cash equivalents to financial institutions, US government or federal agency instruments and obligations of corporations with high credit standing. At December 31, 2012, the majority of our cash balances were held at financial institutions located in California, in accounts that are insured by the Federal Deposit Insurance Corporation up to $250,000. Uninsured balances aggregate approximately $32.0 million as of December 31, 2012. At December 31, 2012, all of our cash equivalents consisted of financial institution obligations. We periodically perform credit evaluations of our customers and maintain reserves for potential losses on our accounts receivable. We do not believe we are subject to concentrations of credit risk with respect to such receivables.

Revenue Recognition

We generate revenues principally from the sale of EnCase®Enterprise and EnCase® Forensic software products. Revenue associated with the sale of software licenses and revenue associated with forensic hardware sales are referred to as product revenues. With the acquisition of CaseCentral in February of 2012, we now have revenue associated with cloud-based document review and production software-as-a-service which is referred to as subscription revenue. Revenues are also generated from training courses, implementation services and consulting services in which we assist customers with the performance of digital investigations and train their IT and legal professionals in the use of our software products, which we collectively refer to as services revenues. Our proprietary products are generally sold with one to three years of maintenance, which can be renewed at a stated renewal rate and is referred to as maintenance revenues.

We recognize revenue in accordance with Accounting Standards Update ("ASU") 2009-13, *Multiple-Deliverable Revenue Arrangements*, (amendment to Accounting Standards Codification ("ASC") Topic 605, *Revenue Recognition*), *Software Industry-Revenue Recognition* topic (ASC 985-605) and *Revenue Recognition* (ASC 605). While the standards govern the basis for revenue recognition, significant judgment and the use of estimates are required in connection with the allocation of revenue between product, subscription, services and maintenance revenues, as well as the amount of deferred revenue to be recognized in each accounting period. In order to determine current and deferred revenue, we make judgments and estimates with regard to future deliverable products and services and the appropriate pricing for those products and services. In general, we recognize revenue when persuasive evidence of an arrangement exists, we have delivered the product or performed the service, the fee is fixed or determinable and collectability is probable, as follows:

- Persuasive evidence of an arrangement: If we either enter into contracts or receive written purchase orders issued by a customer that legally bind us and the customer, we consider that as evidence of an arrangement.
- Delivery: We deem delivery of products to have occurred when the title and risk of ownership have passed to the buyer. Services revenue is recognized as services are performed.
- Fixed or determinable fee: We consider the fee to be fixed or determinable if the fee is not subject to refund or adjustment and the payment terms are within normal established practices. If the fee is not fixed or determinable, we recognize the revenue as amounts become due and payable, provided all other revenue recognition criteria have been met.

- Collection is deemed probable: We conduct a credit review for all significant transactions at the time of the arrangement to determine the credit-worthiness of the customer. Collection is deemed probable if we have a reasonable basis to expect that the customer will pay amounts under the arrangement as payments become due.

However, determining whether and when some of these criteria have been satisfied often involves assumptions and judgments that can have a significant impact on the timing and amount of revenue reported. For example, for multiple element arrangements we must make assumptions and judgments in order to allocate the total purchase price (irrespective of invoiced allocations) among the various elements we deliver, to determine whether undelivered services are essential to the functionality of the delivered products and services, to determine whether vendor-specific evidence ("VSOE") of fair value exists for each undelivered element and to determine whether and when each element has been delivered. The VSOE of fair value for all elements of an arrangement is based upon the normal pricing and discounting practices for those products and services when sold separately and, for software license updates and product support services, is additionally measured by the renewal rate offered to the customer. If we were to change our pricing practices or any of our other assumptions or judgments in the future, our future revenue recognition could differ significantly from our historical results.

Amounts for fees collected or invoiced and due relating to arrangements when revenue cannot be recognized are reflected on our balance sheet as deferred revenue and recognized when the product is delivered or over the period in which the service is performed, in accordance with our revenue recognition policy for such element. If we cannot objectively determine the fair value of any undelivered element included in bundled software and service arrangements, we defer revenue until all elements are delivered and services have been performed, or until fair value can objectively be determined for any remaining undelivered elements. When the fair value of a delivered element has not been established, we use the residual method to record revenue if the fair value of all undelivered elements is determinable. Under the residual method, the fair value of the undelivered elements is deferred and the remaining portion of the arrangement fee is allocated to the delivered elements and is recognized as revenue.

When arrangements involve multiple elements that qualify as separate units of accounting, the consideration is allocated at inception of the arrangement to all deliverables based on the relative selling price method in accordance with the selling price hierarchy, which includes: (1) vendor-specific objective evidence of fair value ("VSOE"), if available, (2) third-party evidence ("TPE") if VSOE is not available, or (3) best estimate of selling price ("BESP") if neither VSOE nor TPE is available.

- *VSOE*. VSOE is determined based on its historical pricing and discounting practices for the specific product or service when sold separately. In determining VSOE, we require that a substantial majority of the selling prices for these services fall within a reasonably narrow pricing range.

- *TPE*. When VSOE cannot be established for deliverables in a multiple element arrangement, judgment is applied with respect to whether we can establish a selling price based on TPE. TPE is determined based on competitor prices for similar deliverables when sold separately. Generally, our go-to-market strategy differs from our peers and our offerings contain a significant level of differentiation such that comparable pricing of services with similar functionality has not been obtained. Furthermore, we have been unable to reliably determine selling prices of similar competitive services on a stand-alone basis. As a result, we have not been able to establish selling prices based on TPE.

- *BESP*. When VSOE or TPE is unable to be established, we use BESP in our allocation of arrangement consideration. The objective of BESP is to determine the price at which we would transact a sale if the service were sold on a stand-alone basis. We determine BESP for deliverables by considering multiple factors including but not limited to prices we charge for similar offerings, market conditions, competitive landscape and pricing practices.

We have established VSOE for our proprietary products and services, but have not established VSOE or TPE for our subscription services or usage-based fee arrangements and therefore we use BESP to allocate the selling price to subscription services and usage-based fee deliverables.

Product Revenues. The timing of product revenue recognition is dependent on the nature of the product sold. We do not have any product offerings where software components and non-software components function together to deliver the tangible product's essential functionality. Product arrangements comprising multiple deliverables, including software and hardware, are generally categorized into one of the following:

- EnCase® Enterprise, EnCase® Forensic, EnCase® eDiscovery, and related products: License revenue associated with these arrangements, exclusive of amounts allocated to maintenance and other undelivered elements for which we have vendor-specific objective evidence ("VSOE") of fair value, is recognized upon delivery, provided that all other criteria for revenue recognition have been met.

- Hardware: Revenue associated with the sale of forensic hardware is recognized upon shipment to the customer, provided that all other criteria for revenue recognition have been met.

Subscription Revenues. Customers pay subscription fees to access our cloud-based document review and production software; however, they may not take possession of the software at any time during the term of the agreement. In general, we recognize revenue for subscription fees on a straight-line basis over the contract period commencing on the date the subscription is made available to the customer. Usage-based fees, that are determined monthly, are recognized when incurred.

Services and Maintenance Revenues. Services and maintenance revenue consists of professional services, training, and maintenance. Revenue from such services is generally recognized as the services are provided. Training revenues are either recognized on a per-class basis upon a participant's attendance or, for those customers who have subscribed to our Annual Training Passport program, revenue is recognized ratably over the annual period. We refer to revenue related to technical product support and software updates on a when-and-if available basis as maintenance revenue, which is recognized ratably over the applicable contractual period. We determine the amount of maintenance revenue to be deferred through reference to substantive maintenance renewal provisions contained in each arrangement. We consider substantive maintenance provisions to be provisions where the cost of the maintenance renewal, stated in the contract with our customer as a percentage of the product fee, is comparable to the normal pricing for maintenance-only renewals. Substantially all of our customers purchase maintenance support when they acquire new software licenses and substantially all renew their maintenance support contracts annually or otherwise.

Deferred Revenue

Deferred revenue consists primarily of payments received in advance of delivery of products and services associated with the sale of EnCase® product and service offerings including deferral of annual post contract support agreements. Deferred revenue also includes revenue related to undelivered elements that may or may not have been sold in conjunction with the sale of EnCase® products for which VSOE of the undelivered elements exists.

Research and Development

We maintain a research and development staff to develop new products and enhance or maintain existing products. In accordance with *Software Industry—Costs of Software to Be Sold, Leased, or Marketed (ASC 985-20)* software costs are expensed as incurred until technological feasibility of the software is determined and the recovery of the cost can reasonably be expected, after which any additional costs are capitalized. To date, we have expensed all software development costs because the establishment of technological feasibility of products and their availability for sale has substantially coincided.

Commissions

Although we expense our sales commissions at the time the related sale is invoiced to the customer, revenues from certain of our products are recognized over the relevant performance or license period. Accordingly, for those products, we generally experience a delay between when sales commissions are expensed and when we recognize the corresponding revenue.

Leases

We lease office facilities under operating leases and certain equipment under capital leases, and account for those leases in accordance with *Leases (ASC 840)*. For operating leases that contain rent escalation or rent concession provisions, the total rent expense during the lease term is recorded on a straight-line basis over the term of the lease, with the difference between rent payments and the straight-line rent expense recorded as rent incentives in the accompanying consolidated balance sheets.

Advertising Costs

Advertising costs are charged to operations as incurred and were not significant for any period presented.

Accounting for Income Taxes

We account for income taxes in accordance with *Income Taxes (ASC 740)*. Deferred income taxes are recorded for the expected tax consequences of temporary differences between the tax bases of assets and liabilities for financial reporting purposes and amounts recognized for income tax purposes. We record a valuation allowance to reduce our deferred tax assets to the amount of future tax benefit that is more likely than not to be realized.

On January 1, 2007, we adopted accounting for uncertainty in income taxes in accordance with *Income Taxes*, which requires companies to determine whether it is more likely than not that a tax position will be sustained upon examination by the appropriate taxing authorities before any part of the benefit can be recorded in the financial statements. The standard also provides guidance on de-recognition, classification, accounting in interim periods and disclosure requirements for tax contingencies. In addition, we have applied the standards in determining whether a tax position is effectively settled for the purpose of recognizing previously unrecognized tax benefits.

Foreign Currency Transactions

Assets and liabilities denominated in foreign currencies are remeasured at the balance sheet date. Resulting exchange rate gains or losses, which were not material to any years presented, are included as a component of current period earnings.

Commitments and Contingencies

We periodically evaluate all pending or threatened litigation and contingencies or commitments, if any, that are reasonably likely to have a material adverse effect on our operations or financial position. In so doing, we assess the probability of an outcome and determine if it is remote, reasonably possible or probable as defined in accordance with the provisions of *Contingency (ASC 450)*. If information available prior to the issuance of our financial statements indicates that it is probable that an asset had been impaired or a liability had been incurred at the date of the financial statements, and the amount of the loss, or the range of probable loss can be reasonably estimated, then such loss is accrued and charged to operations. If no accrual is made for a loss contingency because one or both of the conditions are not met, but the probability of an outcome is at least reasonably possible, we disclose the nature of the contingency and provide an estimate of the possible loss or range of loss, or state that such an estimate cannot be made.

Recent Accounting Pronouncements

Testing Indefinite-Lived Intangible Assets for Impairment: In July 2012, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update No. 2012-02, *Intangibles—Goodwill and Other (Topic 350)—Testing Indefinite-Lived Intangible Assets for Impairment* (ASU 2012-02), to allow entities to use a qualitative approach to test indefinite-lived intangible assets for impairment. ASU 2012-02 permits an entity to first perform a qualitative assessment to determine whether it is more likely than not that the fair value of an indefinite-lived intangible asset is less than its carrying value. If it is concluded that this is the case, it is necessary to perform the currently prescribed quantitative impairment test by comparing the fair value of the indefinite-lived intangible asset with its carrying value. Otherwise, the quantitative impairment test is not required. ASU 2012-02 is effective for us beginning in 2013 and earlier adoption is permitted. We are currently evaluating the impact of our pending adoption of ASU 2012-02 on our consolidated financial statements.

Note 3. Business Combinations

On February 21, 2012, we acquired CaseCentral Inc., a privately held cloud-based document review and production software-as-a-service provider for an aggregate purchase price of approximately $21.1 million, consisting of $9.6 million in cash (net of $1.4 million in cash acquired), $9.5 million of our common stock, consisting of 849,554 shares valued at the market price of $11.18 per share on the closing date of the transaction, and contingent consideration which had a fair value of approximately $0.6 million as of the closing date of the transaction. Both the issuance of shares valued at $9.5 million and the contingent consideration of $0.6 million are reflected as noncash activities in the accompanying consolidated statements of cash flows for the year ended December 31, 2012.

In connection with the CaseCentral acquisition, we may be required to pay former CaseCentral shareholders a total of up to $33 million with respect to the three 12-month periods (“earn-out periods”) starting April 1, 2012. The amount of contingent consideration payable with respect to each of the earn-out periods is equal to 35% of certain qualifying CaseCentral SaaS revenues and EnCase® eDiscovery revenues in excess of $11.1 million during each of the three earn-out periods and is limited to $3.0 million for the first earn-out period, a cumulative total of $13.0 million for the first and second earn-out periods and a cumulative total of $33.0 million for all three earn-out periods. Any earn-out consideration is payable within 65 days after the end of the applicable earn-out period. At December 31, 2012, the fair value of the contingent consideration, which is calculated by summing the present values of various probability-weighted possible outcomes, was estimated to be $0.6 million and was included as a liability on our consolidated balance sheet. We incurred $2.0 million in acquisition-related costs during the year ended December 31, 2012 which were expensed as incurred and included in general and administrative expenses.

We acquired CaseCentral to extend our market leadership by delivering a complete and integrated platform solving the e-discovery needs of corporate and government customers. The CaseCentral acquisition closed on February 21, 2012 and the results of operations of CaseCentral have been included in the Company's financial statements subsequent to such date. CaseCentral's revenues, expenses and net income included in the Consolidated Statements of Operations from the acquisition date through December 31, 2012, including amortization of the acquired intangible assets, were as follows (in thousands):

	Year Ended December 31, 2012
Revenue	$ 14,244
Expense	(15,534)
Net loss	$ (1,290)

The assets and liabilities of CaseCentral have been recorded at their estimated fair values at the date of acquisition. The excess of the purchase price over the estimated fair values of the underlying net tangible and identifiable intangible assets has been recorded as goodwill. The fair value of net tangible assets other than deferred revenue approximates their carrying values on the date of acquisition. The fair value assigned to deferred revenue was determined based on estimated costs to fulfill the underlying service obligation. The fair value assigned to identifiable intangible assets was determined primarily by using a discounted cash flow method. The acquisition transaction was a stock purchase in which the income tax attributes of CaseCentral carried over to the Company. The estimated deferred income tax attributes of CaseCentral, after establishment of deferred income tax liabilities associated with the step-up of the fair values of the net assets acquired over their pre-acquisition tax basis, resulted in a net deferred income tax asset. Given CaseCentral's history of reporting net losses, our management concluded that realization of the net deferred income tax asset acquired is not likely and therefore a valuation allowance was established to offset the entire net deferred income tax asset. As a result, deferred income taxes are not reflected in the table below. The goodwill recognized for CaseCentral is attributable to intangible assets acquired that do not qualify for separate recognition, expected synergies that are projected to increase revenue and profits and an assembled workforce. The assignment of the CaseCentral goodwill to our operating segments or reporting units has not been completed. The CaseCentral goodwill is not tax deductible.

The Company's allocation of the purchase price related to contingent consideration, identifiable intangible assets, deferred revenue, and the effects of income taxes resulting from the transaction has been finalized. The impact of adjustments to provisionally measured assets and liabilities are an increase in prepaids and other assets of $0.3 million, an increase in accounts payable and accrued expenses of $0.5 million, a decrease in intangible assets of $2.2 million, and a decrease in goodwill of $2.1 million and a decrease in contingent consideration measured as of February 21, 2012 (the acquisition date) of $4.5 million. These adjustments had no impact on the consolidated statement of operations for the year ended December 31, 2012, and their impact for the unaudited interim periods in 2012 was not material; accordingly they are not presented retrospectively. The final purchase price allocation is as follows (in thousands):

	Weighted Average Estimated Useful Life		Fair Market Values
Cash and cash equivalents			$ 1,400
Accounts receivable			3,072
Prepaids & other assets			1,240
Property and equipment			1,101
Identifiable intangible assets:			
Core & developed technology	7	$ 4,700	
Customer relationships	10	5,900	
Trade name	3	300	
Covenant not-to compete	5	200	
Total identifiable intangible assets			11,100
Goodwill			10,921
Accounts payable and accrued expenses			(3,465)
Capital lease obligations			(929)
Deferred revenue			(3,300)
Total purchase price			$ 21,140

The following are the unaudited pro forma condensed consolidated financial statements of the combined entity for the years ended December 31, 2012 and 2011 assuming the business combination had occurred on January 1, 2012 and 2011, respectively (in thousands, except per share amounts).

	Year Ended December 31, 2012	Year Ended December 31, 2011
Total revenues	$ 132,141	$ 124,181
Total net expenses	135,840	125,547
Income (loss) before income taxes	(3,699)	(1,366)
Income tax provision	188	158
Net income (loss)	$ (3,887)	$ (1,524)
Net income (loss) per share — basic and diluted	(0.16)	(0.07)

Note 4. Net Income (Loss) Per Share

Basic net income (loss) per common share is calculated by dividing net income (loss) by the weighted average number of common shares outstanding during the reporting period. Diluted net income (loss) per share is calculated based on the weighted average number of common shares and dilutive potential common shares outstanding during the period. Dilutive potential common shares consist of the shares issuable upon the exercise of stock options and upon the vesting of restricted stock awards under the treasury stock method. In net loss periods, basic net loss per share and diluted net loss per share are identical since the effect of potential common shares is anti-dilutive and therefore excluded.

The following table sets forth the computation of basic and diluted net income (loss) per share (in thousands, except per share data):

	Year Ended December 31, 2012	2011	2010
Numerator:			
Net income (loss)	$ (1,983)	$ (1,649)	$ (4,602)
Denominator:			
Basic weighted average shares outstanding	24,577	23,252	23,024
Effect of dilutive share-based awards	—	—	—
Diluted weighted average shares outstanding	24,577	23,252	23,024
Net income (loss) per share:			
Basic	$ (0.08)	$ (0.07)	$ (0.20)
Diluted	$ (0.08)	$ (0.07)	$ (0.20)

Antidilutive securities, which consist of stock options and restricted stock awards that are not included in the diluted net loss per share calculation, consisted of an aggregate of approximately 1,599,000, 3,866,000 and 5,500,000 shares as of December 31, 2012, 2011 and 2010, respectively.

Note 5. Inventory

Inventory is comprised of hardware components, packaged software components and finished goods and is valued at the lower of cost or market, using the weighted average cost method. The following table sets forth inventory by major classes:

	December 31, 2012	December 31, 2011
	(in thousands)	
Components	$ 967	$ 565
Finished goods	1,041	829
Total inventory	$ 2,008	$ 1,394

Note 6. Property and Equipment

Property and equipment, including assets held under capital leases, consist of the following:

	December 31,	
	2012	2011
	(in thousands)	
Leasehold improvements	$ 7,383	$ 7,687
Computer hardware and software	17,938	18,286
Office equipment and furniture	3,082	3,200
Leased computers and office equipment	550	680
Assets not yet placed in service	2,487	565
	31,440	30,418
Accumulated depreciation and amortization	(21,213)	(21,145)
Property and equipment, net	$ 10,227	$ 9,273

Depreciation and amortization expense related to property and equipment was $4.4 million, $4.1 million and $4.0 million for the years ended December 31, 2012, 2011 and 2010, respectively.

Note 7. Goodwill and Other Intangibles

We assess goodwill and indefinite-lived intangible assets related to our Tableau and CaseCentral acquisitions for impairment annually as of April 30 and January 31, respectively, or more frequently if circumstances indicate impairment may have occurred. Since the initial recording of the goodwill and indefinite-lived intangible assets balances reflected in the tables below, there has been no impairment charges related to such assets through December 31, 2012. We expect the goodwill assigned to our products segment to be deductible for tax purposes and the unassigned goodwill to not be deductible for tax purposes. The following table summarizes how goodwill is assigned to our reporting segments (in thousands):

	Products	Subscription	Services	Maintenance	Unassigned	Total
Goodwill balance, December 31, 2010	$ 3,711	$ —	$ —	$ —	$ —	$ 3,711
Additions	—	—	—	—	—	—
Goodwill balance, December 31, 2011	$ 3,711	$ —	$ —	$ —	$ —	$ 3,711
Additions	—	—	—	—	10,921	10,921
Goodwill balance, December 31, 2012	$ 3,711	$ —	$ —	$ —	$ 10,921	$ 14,632

The goodwill arising from the acquisition of CaseCentral is classified as unassigned in the table above as the allocated methodology has not been completed.

In-process research and development intangible assets acquired are considered to be indefinite-lived until completion or abandonment of the associated research and development efforts. The Company will determine the estimated useful lives and amortization method of the asset upon completion of the research and development efforts. During the period the assets are considered indefinite-lived, impairment will be assessed annually or whenever events or changes in circumstances indicate that their carrying value may not be recoverable.

The following table summarizes goodwill and indefinite-lived intangible assets (in thousands):

	Goodwill	In-Process Research and Development	Total
Balance, December 31, 2010	$ 3,711	$ 1,015	$ 4,726
Additions	—		
Reclassed to developed technology	—	(683)	(683)
Balance, December 31, 2011	$ 3,711	$ 332	$ 4,043
Additions	10,921	—	10,921
Reclassed to developed technology	—	(332)	(332)
Balance, December 31, 2012	$ 14,632	$ —	$ 14,632

In February 2012, the Company acquired CaseCentral resulting in acquired intangible assets. With the exception of customer relationships, which are amortized on a double-declining basis, the acquired intangible assets are being amortized on a straight line basis over their estimated useful lives.

Amortization expense for intangible assets with finite lives was $2.4 million, $1.3 million and $0.7 million for the years ended December 31, 2012, 2011 and 2010, respectively. The following table summarizes cumulative amortization expense related to intangible assets subject to amortization as of December 31, 2012 and 2011 (in thousands):

	December 31, 2012			December 31, 2011		
	Gross Costs	Accumulated Amortization	Net	Gross Costs	Accumulated Amortization	Net
Core technology	$ 5,800	$ (867)	$ 4,933	$ 1,100	$ (181)	$ 919
Existing and developed technology	2,300	(1,648)	652	1,968	(1,260)	708
Customer relationships	6,475	(1,353)	5,122	575	(283)	292
Trade names	2,100	(562)	1,538	1,800	(297)	1,503
Covenant not-to-compete	200	(34)	166	—	—	—
Total	$ 16,875	$ (4,464)	$ 12,411	$ 5,443	$ (2,021)	$ 3,422

The following table summarizes the estimated remaining amortization expense through the year 2016 and thereafter (in thousands):

Year ending	Amortization Expense
2013	$ 2,268
2014	2,071
2015	1,744
2016	1,591
2017	1,487
Thereafter	3,250
Total amortization expense	$ 12,411

Note 8. Income Taxes

We are subject to federal, state and foreign corporate income taxes. The provision for income taxes consists of the following:

	Year Ended December 31,		
	2012	2011	2010
		(in thousands)	
Current:			
Federal	$ —	$ (3)	$ —
State	52	27	29
Foreign	50	40	31
	102	64	60
Deferred:			
Federal	75	84	54
State	11	10	7
	86	94	61
	$ 188	$ 158	$ 121

A reconciliation of the provision for income taxes at the federal statutory rate compared to our actual tax provision is as follows:

	Year Ended December 31,		
	2012	2011	2010
	(in thousands)		
Federal income tax benefit at statutory rate	$ (610)	$ (507)	$ (1,523)
State income taxes, net of federal benefit	(350)	(295)	(300)
Foreign income taxes, net of federal benefit	33	40	20
Share-based compensation	(110)	272	656
Change in valuation allowance affecting income tax expense	717	994	1,510
Research and development tax credits	—	(478)	(356)
Nondeductible meal and entertainment expense	109	108	109
Nondeductible stock acquisition related expense	392	—	—
State tax law changes	383	—	—
Deferred income tax adjustments	(360)	—	—
Other, net	(16)	24	5
	$ 188	$ 158	$ 121

The components of deferred tax assets and liabilities are as follows:

	December 31,	
	2012	2011
	(in thousands)	
Deferred tax assets:		
Accrued expenses	$ 1,725	$ 1,700
Deferred revenues	1,196	1,594
Share-based compensation	3,704	3,328
Tax credits	3,663	3,290
Net operating losses	14,172	5,080
Depreciable assets	634	—
Intangible assets	—	649
Prepaids/other	164	—
Total deferred tax assets	25,258	15,641
Deferred tax liabilities:		
Intangible assets	(2,697)	—
Goodwill	(242)	(155)
Depreciable assets	—	(1,189)
Total deferred tax liabilities	(2,939)	(1,344)
Net deferred tax assets prior to valuation allowance	22,319	14,297
Valuation allowance	(22,561)	(14,452)
Net deferred tax liabilities	$ (242)	$ (155)

Our foreign income is not a material component of total income or (loss) before provision for income taxes. We intend to reinvest the earnings of our non-U.S. subsidiary in its operation. Undistributed earnings in our foreign subsidiary are not significant as of December 31, 2012.

As of December 31, 2012, our valuation allowance increased $8.0 million from $14.5 million as of December 31, 2011. We have fully reserved against our deferred tax assets based on our assessment of the future realizability of our deferred tax assets. In performing these assessments, we consider whether it is more likely than not that some portion or all of the deferred tax assets will not be realized. We consider all available evidence, both positive and negative, including historical levels of income, expectations and risks associated with estimates of future taxable income in assessing the need for a valuation allowance. A cumulative taxable loss in recent years makes it more difficult for us to realize our deferred tax assets. We have had three years of cumulative U.S. tax losses and can no longer rely on common tax planning strategies to use U.S. tax losses and we are precluded from relying on projections of future taxable income to support the recognition of deferred tax assets. As such, the ultimate realization of our deferred tax assets is dependent upon the existence of sufficient taxable income generated in the carryforward periods.

As of December 31, 2012, we have federal and state research and development tax credit carryforwards of approximately $2.1 million and $2.9 million, respectively. The federal tax credits begin to expire in 2026. The state tax credit carryforward can be carried forward indefinitely.

As of December 31, 2012, our federal and state net operating loss carryforwards for income tax purposes are approximately $39.6 million and $23.6 million, respectively, which expire at various dates through 2032. Our federal and California NOLs have increased significantly during the year as a result of acquired NOL carryforwards through our stock acquisition of CaseCentral Inc. The utilization of NOL carryforwards to reduce taxable income is subject to certain statutory limitations as defined in section 382 of the Internal Revenue Code, as amended.

Included in the NOL deferred tax asset above is approximately $2.2 million of deferred tax asset attributable to excess stock option deductions. Due to a provision within ASC Topic 718, *Compensation — Stock Compensation*, concerning when tax benefits related to excess stock option deductions can be credited to paid in capital, the related valuation allowance cannot be reversed, even if the facts and circumstances indicate that it is more likely than that the deferred tax asset can be realized. The valuation allowance will only be reversed as the related deferred tax asset is applied to reduce taxes payable. The Company follows ASC 740 ordering to determine when such NOL has been realized.

We file income tax returns with the Internal Revenue Service, and the taxing authorities of various state and foreign jurisdictions. We adopted the provisions of accounting for uncertain tax positions in accordance with the *Income Taxes* (ASC 740) topic on January 1, 2007 and, accordingly, performed a comprehensive review of our uncertain tax positions as of that date. In this regard, an uncertain tax position represents our expected treatment of a tax position taken in a filed tax return, or planned to be taken in a future tax return, that has not been reflected in measuring income tax expense for financial reporting purposes. A reconciliation of our total unrecognized tax benefits at December 31, 2012, 2011 and 2010 follows:

	Year Ended December 31,		
	2012	2011	2010
		(in thousands)	
Balance at beginning of year	$ 445	$ 297	$ —
Additions based on tax positions in the current period	62	148	297
Additions based on tax positions in prior periods	—	—	—
Reductions based on tax positions in prior periods	—	—	—
Settlements	—	—	—
Expiration of statutes	—	—	—
Balance at end of year	$ 507	$ 445	$ 297

Our unrecognized tax benefit as of December 31, 2012 is $0.5 million. We are subject to routine corporate income tax audits in the United States and foreign jurisdictions. The statute of limitations for tax years 2010 through 2012 remains open for U.S. purposes. Most foreign jurisdictions have statute of limitations that range from three to six years.

Since we have fully reserved against our deferred tax assets, the liability for uncertain tax positions is merely a reduction to our deferred tax assets and related valuation allowance which is reflected in our consolidated balance sheets. Any subsequent reduction of the valuation allowance and the recognition of the associated tax benefit would affect our effective tax rate. Our policy is to recognize interest and penalties related to uncertain tax positions, if any, in the income tax provision. Interest and penalties are computed based upon the difference between our uncertain tax positions under *Income Taxes* and the amount deducted or expected to be deducted in our tax returns. Amounts accrued or paid for interest and penalties were insignificant in 2012, 2011 and 2010.

Note 9. Debt Obligations

On July 12, 2012, we entered into a Loan and Security Agreement (the "Loan Agreement") with a bank. The Loan Agreement creates a line of credit to provide for one or more revolving loans, non-revolving loans or term loans and up to $3.0 million in standby letters of credit (the "Loans"). The maximum principal amount of Loans that may be outstanding at any given time under the Loan Agreement, including standby letters of credit, is $7.0 million. Any borrowings under the Loan Agreement would be collateralized by substantially all our assets. The Loan Agreement requires that we remain in compliance with certain financial covenants, including that we maintain unrestricted cash and marketable securities of not less than $12.5 million, that we maintain a ratio of total funded indebtedness to earnings before interest, taxes, depreciation, amortization and stock compensation expense ("EBITDA") of not greater than 2.25 to 1, that we maintain a ratio of cash flow to current portion of long-term debt of not less than 1.25 to 1, and that we shall not allow a cumulative net loss of more than $5.0 million during any fiscal year. There are no amounts outstanding under this line of credit and we were in compliance with the covenants associated with the revolving line of credit as of December 31, 2012. Borrowings under the Loan Agreement bear interest at one of the following rates (as selected by us): a rate equal to the bank's alternate base rate plus 1.00% or LIBOR plus 2.25%. All principal, interest and other amounts owing under the Loan Agreement will be due and payable in full on or prior to June 30, 2014. The Loan Agreement supersedes and replaces our Amended and Restated Credit Agreement, dated as of May 1, 2007, which would have expired on August 31, 2012.

As of December 31, 2012, we had three outstanding stand-by letters of credit in the amounts of $112,500, $338,400, and $1.2 million related to three of our facility leases and another outstanding stand-by letter of credit in the amount of $150,000, related to equipment leases, all secured by substantially all our assets. There were no amounts outstanding under this line of credit at December 31, 2012 or December 31, 2011. The available borrowing under the Loan Agreement at December 31, 2012 is $5.2 million.

Note 10. Related Party Transactions

Certain of our stockholders guarantee an obligation due under one of our operating leases (Note 11).

Note 11. Leases

We lease certain facilities and equipment under non-cancellable operating leases extending through 2024. The present value of the remaining future minimum lease payments under capital leases is recorded in the consolidated balance sheets. The following is a schedule of future minimum lease payments under capital leases and operating leases (in thousands):

Years Ending December 31,	Future Minimum Capital Lease Payments	Future Minimum Operating Lease Payments	Future Minimum Lease Payments
2013	453	3,770	4,223
2014	174	2,687	2,861
2015	13	3,367	3,380
2016	—	2,774	2,774
2017	—	2,812	2,812
Thereafter	—	18,784	18,784
Total	$ 640	$ 34,194	$ 34,834
Less amounts representing interest (2.5%—8.0%)	(66)		
	$ 574		

Rent expense related to operating leases for 2012, 2011 and 2010 was approximately $5.2 million, $3.4 million and $3.7 million, respectively. As of December 31, 2012 and 2011, we did not have sublease rental income. One operating lease is guaranteed by certain stockholders of the Company.

Note 12. Equity Incentive Plan

At our 2012 Annual Meeting of Stockholders, our stockholders approved the Second Amendment (the “Second Amendment”) to the Guidance Software, Inc. Second Amended and Restated 2004 Equity Incentive Plan (the “Plan”). The Second Amendment amended the Plan to: increase the aggregate number of shares of our common stock available for awards under the Plan by an additional 2,500,000 shares, from 9,088,313 shares to a total of 11,588,313 shares; prohibit the re-pricing of stock options and the cancellation of underwater options in exchange for cash payments or other awards, without the approval of our stockholders; provide that shares tendered or withheld to satisfy the grant or exercise price or tax withholding obligation pursuant to any award will count against the limit of shares available for awards under the Plan; and modify the initial and annual equity award grants to our non-employee directors. The Second Amendment was approved by our Board of Directors in March 2012, and approved by our stockholders at our 2012 Annual Meeting of Stockholders on May 9, 2012. At December 31, 2012, approximately 2,419,000 shares were available for grant as options or nonvested share awards under the Plan.

The Guidance Software, Inc. First Amended and Restated 2004 Equity Incentive Plan originally became effective on November 10, 2006 and was amended on March 17, 2008 and February 13, 2009 to provide for certain annual equity award grants to non-employee members of the Company’s Board of Directors. At the Company’s 2008 Annual Meeting of Stockholders, the stockholders approved an amendment to the First Amended and Restated 2004 Equity Incentive Plan that accelerated to July 1, 2008 the automatic increase in the number of shares available under the plan that was scheduled to occur on January 1, 2009. On April 22, 2010, the stockholders approved the Plan which amended and restated the First Amended and Restated 2004 Equity Incentive Plan. The Plan was initially amended on April 22, 2010 to modify the vesting schedule of the grants of annual restricted stock to non-employee directors.

Stock Options

The terms of the options granted under the Second Amended and Restated Plan are determined at the time of grant, and generally vest 25% annually over a four-year service period and typically must be exercised within 10 years from the date of grant.

A summary of stock option activity follows:

	Number of Options	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term (in years)	Aggregate Intrinsic Value
Outstanding, December 31, 2009	3,785,000	$ 8.67	6.7	$ 1,237,000
Granted	327,000	5.42		
Exercised	(95,000)	4.63		
Forfeited or expired	(378,000)	9.74		
Outstanding, December 31, 2010	3,639,000	$ 8.37	6.1	$ 4,432,000
Granted	4,000	6.92		
Exercised	(99,000)	4.57		
Forfeited or expired	(167,000)	10.15		
Outstanding, December 31, 2011	3,377,000	$ 8.39	5.1	$ 2,884,000
Granted	—			
Exercised	(647,000)	5.25		
Forfeited or expired	(192,000)	11.06		
Outstanding, December 31, 2012	2,538,000	8.99	4.3	$ 8,312,000
Exercisable, December 31, 2012	1,867,000	$ 8.33	3.9	$ 7,142,000

We define in-the-money options at December 31, 2012 as options that had exercise prices that were lower than the $11.87 fair market value of our common stock at that date. The aggregate intrinsic value of options outstanding at December 31, 2012 is calculated as the difference between the exercise price of the underlying options and the fair market value of our common stock for the 1,651,000 options that were in-the-money at that date, of which 1,517,000 were exercisable. The total intrinsic value of stock options exercised, determined as of the date of exercise, was $3,437,000, $315,000 and $104,000 during the years 2012, 2011 and 2010, respectively.

The following summarizes information about options unvested at December 31, 2012 that, based on current forfeiture rates, are expected to ultimately vest:

	Number of Options	Weighted Average Exercise Price	Weighted Average Remaining Contractual Term (in years)	Aggregate Intrinsic Value
Options expected to vest	658,000	$ 10.92	5.4	$ 1,089,000

Restricted Stock Awards

During 2007, we began issuing restricted stock awards to certain directors, officers and employees under the Plan. Compensation expense for such awards, based on the fair market value of the awards on the grant date, is recorded during the vesting period. Restricted stock awards generally vest 25% annually over a four-year service period.

A summary of restricted stock awards activity follows:

	Number of Shares	Weighted Average Fair Value
Outstanding, December 31, 2009	1,043,000	$ 7.27
Granted	1,280,000	5.75
Vested and issued	(272,000)	7.56
Forfeited	(190,000)	6.59
Outstanding, December 31, 2010	1,861,000	6.25
Granted	1,165,000	6.76
Vested and issued	(658,000)	7.39
Forfeited	(458,000)	6.29
Outstanding, December 31, 2011	1,910,000	6.16
Granted	1,614,000	9.93
Vested and issued	(650,000)	6.21
Forfeited	(363,000)	7.97
Outstanding, December 31, 2012	2,511,000	$ 8.31

The total grant date fair value of shares vested under such grants during 2012, 2011 and 2010 was $4,033,000, $4,866,000, and $2,053,000, respectively.

Note 13. Share-Based Compensation

We account for share-based compensation in accordance with *Compensation-Stock Compensation (ASC 718).* Share-based compensation expense for all share-based awards is recognized using the Black-Scholes option pricing model to determine the grant date fair value of share-based payments. We recognize the cost, net of an estimated forfeiture rate, as compensation expense on a straight-line basis over the vesting period.

The fair values of awards granted under the Second Amended and Restated Plan were estimated at the date of grant using the Black-Scholes option pricing model and the following weighted average assumptions (no stock option awards have been issued since January 2011):

	Year Ended December 31, 2011	Year Ended December 31, 2010
Risk-free interest rate	2.40%	2.86%
Dividend yield	—%	—%
Expected life (years)	6.25	6.25
Volatility	65.5%	56.2%
Weighted average grant date fair value	$ 4.27	$ 3.04

The volatility of our common stock is estimated at the date of grant based on a weighted-average of the implied volatility of publicly traded 30-day to 270-day options on the common stock of a select peer group of similar companies ("Similar Companies"), the historical volatility of the common stock of Similar Companies and, beginning in late 2007, the historical volatility of our common stock. The risk-free interest rate that was used in the Black-Scholes option valuation model is based on the implied yield in effect at the time of each option grant, based on US Treasury zero-coupon issues with equivalent remaining terms. We use an expected dividend yield of zero in the Black-Scholes option valuation model, as we have no intention of paying any cash dividends on our common stock in the foreseeable future. We estimate forfeitures at the time of grant and revise those estimates in subsequent periods if actual forfeitures differ from those estimates. We use historical data to estimate pre-vesting option forfeitures and record share-based compensation expense only for those awards that are expected to vest. We amortize share-based compensation on a straight-line basis over the requisite service period of the awards, which is generally the vesting period. The expected term (life) of all stock option awards has been calculated using the "simplified method" as defined by *Compensation-Stock Compensation* because, due to the limited time our common stock had been publicly traded as of the stock option grant dates, we lacked sufficient historical data to provide a reasonable basis to estimate the expected term of these options.

The following table summarizes the share-based compensation expense we recorded:

	Year Ended December 31,		
	2012	2011 (in thousands)	2010
Stock option awards	$ 343	$ 1,256	$ 1,856
Restricted stock awards	5,508	4,276	3,331
Share-based compensation expense	$ 5,851	$ 5,532	$ 5,187

	Year Ended December 31,		
	2012	2011 (in thousands)	2010
Cost of product revenue	$ 101	$ 82	$ 54
Cost of subscription revenue	142	—	—
Cost of services and maintenance revenue	1,041	898	847
Selling and marketing	1,639	1,613	1,601
Research and development	1,428	1,373	1,192
General and administrative	1,500	1,566	1,493
Total non-cash share-based compensation	$ 5,851	$ 5,532	$ 5,187

As of December 31, 2012, there was approximately $0.2 million of total unrecognized share-based compensation cost related to stock options that is expected to be recognized over a weighted-average period of 1.2 years and approximately $17.0 million of total unrecognized share-based compensation cost related to restricted stock awards that is expected to be recognized over a weighted-average period of 3.0 years. We expect to record approximately $6.4 million in share-based compensation in 2013 related to options and restricted stock awards outstanding at December 31, 2012.

Note 14. Other Employee Benefit Plans

Defined Employee Contribution Plans

The Company has a 401(k) plan that allows all full-time eligible employees to contribute up to 15% of their semi-monthly earnings, up to the maximum limit set by the IRS each year. We match $0.50 on each dollar up to 6% of the employee's semi-monthly contribution. Additionally, the Company may make discretionary contributions to the Plan regardless of profitability. In 2010, we reinstated the Company matching contribution under the 401(k) plan that was temporarily suspended in July 2009. We recorded contribution related expense of approximately $950,000, $766,000 and $324,000 in the years 2012, 2011 and 2010, respectively.

Note 15. Stockholders' Equity

In August 2008, our Board of Directors authorized a program to repurchase shares of our common stock having an aggregate value of up to $8.0 million. As of December 31, 2012, we had approximately $3.6 million remaining under this authorization. Acquisitions of shares may be made from time-to-time at management's discretion, at prevailing prices in the open market, or in privately negotiated transactions, as permitted by securities laws and other legal requirements, and are subject to market conditions and other factors. The program may be discontinued at any time. During 2011, we repurchased 186,977 shares under this program. Additionally, for the years ended December 31, 2012 and 2011 we withheld approximately 207,000 and 204,000 common shares from employees for personal income tax purposes upon the vesting of restricted stock awards. Collectively, these shares are recorded as treasury stock, at cost, in the Consolidated Balance Sheets.

Note 16. Fair Value Measurements

In accordance with *Fair Value Measurements and Disclosures (ASC 820)* for financial assets and liabilities measured at fair value on a recurring basis. *Fair Value Measurements and Disclosures (ASC 820)* requires disclosure that establishes a framework for measuring fair value and expands disclosure about fair value measurements. Under this standard, fair value is defined as the price that would be received in exchange for selling an asset or paid to transfer a liability (i.e., the "exit price") in an orderly transaction between market participants at the measurement date. *Fair Value Measurements and Disclosures(ASC 820)* establishes a hierarchy for inputs used in measuring fair value that minimizes the use of unobservable inputs by requiring the use of observable market data when available. Observable inputs are inputs that market participants would use in pricing the asset or liability based on active market data. Unobservable inputs would be inputs that reflect our assumptions about the assumptions market participants would use in pricing the asset or liability based on the best information available in the circumstances. The statement requires fair value measurements be classified and disclosed in one of the following three categories:

Level 1:	Unadjusted quoted prices in active markets that are accessible at the measurement date for identical, unrestricted assets and liabilities.
Level 2:	Quoted prices in markets that are not active or financial instruments for which all significant inputs are observable, either directly or indirectly, and corroborated by market data.
Level 3:	Prices or valuations that require inputs that are both significant to the fair value measurement and unobservable.

The following table sets forth, by level within the fair value hierarchy, financial assets and liabilities that are accounted for at fair value on a recurring basis as of December 31, 2012 and 2011 (in thousands):

	Fair Value Measurements at December 31, 2012			
	Total	Level 1	Level 2	Level 3
Assets:				
U.S. Treasury Securities	$ 5,999	$ 5,999	$ —	$ —
Money market accounts	19,671	19,671	—	—
Total assets	$ 25,670	$ 25,670	$ —	$ —
Liabilities:				
Acquisition contingent consideration earn-out	600	—	—	600
Total liabilities	$ 600	$ —	$ —	$ 600

	Fair Value Measurements at December 31, 2011			
	Total	Level 1	Level 2	Level 3
Assets:				
Money market accounts	$ 31,636	$ 31,636	$ —	$ —
Total assets	$ 31,636	$ 31,636	$ —	$ —

The Company has obligations, to be paid in cash, to the former shareholders of CaseCentral if certain SaaS revenue thresholds are achieved during the three 12-month periods starting April 1, 2012. The fair value of this contingent consideration is determined using an expected present value technique. Expected cash flows are determined using the probability - weighted average of possible outcomes that would occur should certain revenue metrics be reached. There are no market data available to use in valuing the contingent consideration; therefore, the Company developed its own assumptions related to the future financial performance of the businesses to evaluate the fair value of these liabilities. As such, the contingent consideration is classified within Level 3, as described above.

In connection with estimating the fair value of the contingent consideration, the Company developed various scenarios (base case, downside case, and upside case) and weighted each case according to the probability of occurrence. The probabilities ranged from 20 percent to 50 percent, with the most significant weighting given to the base case at 50 percent. These scenarios were developed based on the expected financial performance of CaseCentral, with SaaS revenue growth rates being a primary input in the calculation. An increase or decrease in the probability of achievement of any of the scenarios could result in a significant increase or decrease to the estimated fair value.

The fair value will be reviewed quarterly based on the financial performance of the most recently completed fiscal quarter. An analysis will also be performed at the end of each fiscal quarter to compare actual results to forecasted financial performance. If performance has deviated from projected levels, the valuation will be updated for the latest information available.

The significant assumptions that may materially affect fair value are developed in conjunction with the guidance of our senior management to ensure that the most accurate and latest financial projections are used and compared with the most recent financial results in the fair value measurement.

The change in fair value of the contingent consideration from the final purchase price allocation established as of February 21, 2012, which was the date the Company acquired CaseCentral, was not material (see Note 3). The current liability is included in the Consolidated Balance Sheets in accrued liabilities and the non-current portion is included in contingent earn-out, net of current portion.

Note 17. Contractual Obligations, Commitments and Contingencies

Office Lease

On July 26, 2012, we entered into an Office Lease Agreement (the "Lease") to lease approximately 90,000 rentable square feet of an office building located in Pasadena, California. The Lease commences on August 1, 2013 and expires May 2024. The Lease will allow the Company to consolidate its Pasadena operations into a single location. The total annual rent under the Lease ranges from approximately $2.5 million for the first year to approximately $3.4 million for the final year of the Lease. The Company has two options to extend the Lease, each for a period of five years.

Third-party Software License

During the year ended December 31, 2012, the Company entered into a $1.5 million third-party software license agreement that authorizes the Company to integrate database software as a component of its products through November 2015. The agreement also provides for maintenance and support over a two-year period for $0.3 million, which may be renewed by the Company after the expiration of the two-year period ending November 2014. The $1.8 million is payable in eight quarterly installments of $229,000 through January 2014. Payments of $0.9 million under the agreement were made during the year ended December 31, 2012. The license, maintenance and remaining liability have been recorded on the accompanying consolidated balance sheets.

Legal Matters

On May 20, 2011, MyKey Technology Inc. ("MyKey") filed a complaint against us and certain other parties for patent infringement in the United States District Court for the District of Delaware. With respect to the Company, the complaint alleges that certain of our data acquisition forensic hardware products that we acquired as a result of our acquisition of certain assets of Tableau, LLC, ("Tableau") infringe three of MyKey's patents relating to write blocking, duplication and data removal technologies, respectively. The complaint seeks a declaration of infringement, a finding of willful infringement, compensatory damages, treble damages, injunctive relief, interest, expenses, costs and attorneys' fees.

On July 22, 2011, MyKey also filed a complaint with the United States International Trade Commission (the "ITC"), alleging infringement by the Company and certain other parties of the three patents discussed in the preceding paragraph and requesting that the ITC commence an investigation pursuant to Section 337 of the Tariff Act of 1930. The complaint sought injunctive relief barring the Company from the importation of products that allegedly infringed the three patents of MyKey. On August 24, 2011, the ITC commenced an investigation of the Company and certain other parties related to the complaint by MyKey. On August 31, 2011 the proceeding in the District Court was stayed pending the resolution of the ITC matter. On August 1, 2012, MyKey amended its ITC complaint to remove allegations that its duplication patent had been infringed by the Company and to reduce the number of claims it alleges the Company has infringed related to MyKey's data removal patent. In August 2012, the parties completed a trial on the remaining patent claims at issue.

On December 28, 2012, the ITC released a final determination and Order holding that no violation of Section 337 of the Tariff Act of 1930 occurred as a result of the Company's importation into the United States and sale of the products at issue. This Order effectively ends the ITC proceeding. On February 20, 2013, the U.S. District Court of Delaware lifted the stay of the proceedings in the MyKey matter.

We intend to defend the MyKey matter vigorously and, at this time, are unable to estimate what, if any, liability we may have in connection with these matters. We are unable to estimate a range of reasonably possible losses due to various reasons, including, among others, that (1) certain of the proceedings are at an early stage, (2) there is uncertainty as to the outcome of pending appeals, motions, or settlements, (3) there are significant factual issues to be resolved, (4) there are unresolved negotiations with certain indemnitors or indemnitees of the Company, related to the actions, and (5) we have meritorious defenses that we intend to assert.

On March 19, 2012, Lone Star Document Management, LLC ("Lone Star") filed a complaint against CaseCentral in the United States District Court for the Eastern District of Texas. The complaint alleges that certain SaaS applications of CaseCentral, which were acquired by us as a result of our acquisition of CaseCentral, infringe one of Lone Star's patents relating to systems for proofing and reviewing multiple versions of a document simultaneously and notes or annotations made regarding that document. The complaint seeks a permanent injunction, compensatory damages, interest, costs and attorneys' fees. On September 19, 2012, the Company and Lone Star entered into a settlement and license agreement related to this matter, pursuant to which Lone Star forever and unconditionally agreed to a covenant not to sue the Company, released the Company from all claims, and granted the Company a royalty-free perpetual license to the patent. The settlement costs and the Company's legal costs related to the defense of the Lone Star matter were immaterial to the Company and were fully indemnified by CaseCentral in accordance with the merger agreement by which the Company acquired CaseCentral.

From time to time, we may become involved in various other lawsuits and legal proceedings that arise in the ordinary course of business. Litigation is subject to inherent uncertainties, and an adverse result in these or other matters may arise from time to time that may harm our business. We are not currently aware of any such other legal proceedings or claims that are likely to have a material impact on our business.

Indemnifications

We have agreed to indemnify our directors and executive officers for costs associated with any fees, expenses, judgments, fines and settlement amounts incurred by them in any action or proceeding to which any of them is, or is threatened to be, made a party by reason of his or her services in their role as a director or officer.

Sales Tax Liabilities

The Company's sales and use tax filings are subject to customary audits by authorities in the jurisdictions where it conducts business in the United States, which may result in assessments of additional taxes. In March 2011, we determined that additional sales taxes were probable of being assessed by a certain state as a result of the preliminary findings specific to a sales and use tax audit. As a result, we estimated an incremental sales tax liability of approximately $1.3 million, including interest and penalties of approximately $300,000, where applicable. The estimated incremental sales and use tax liability was based on a similar model that was being used by the state conducting the sales and use tax audit. The estimated liability is recorded in accrued liabilities on the accompanying consolidated balance sheets and general and administrative expenses in 2011.

Note 18. Segment Information

We have adopted *Segment Reporting (ASC 280)* requiring segmentation based on our internal organization and reporting of revenue and other performance measures. Our segments are designed to allocate resources internally and provide a framework to determine management responsibility. Operating segments are defined as components of an enterprise about which discrete financial information is available that is evaluated regularly by the chief operating decision maker, or decision making group, in deciding how to allocate resources and in assessing performance. Our chief operating decision maker is our Chief Executive Officer. We have five operating segments, as summarized below:

- Products segment—Includes EnCase® Enterprise, EnCase® eDiscovery, EnCase® Cybersecurity, EnCase® Forensic, EnCase® Portable, Premium License Support Program and hardware sales.

- Subscription segment—Subscription services for cloud-based document review and production software. The subscription segment is new as of February 2012 due to our acquisition of CaseCentral.

- Professional services segment—Performs consulting services and implementations.

- Training segment—Provides training classes by which we train our customers to effectively and efficiently use our software products.

- Maintenance segment—Includes maintenance related revenue.

We present the revenue generated by our services and maintenance segments, collectively. Currently, we do not separately allocate operating expenses to these segments, nor do we allocate specific assets, with the exception of goodwill, to these segments. Therefore, the segment information reported includes only revenues, cost of revenues and segment profit. The following tables present the results of operations for each operating segment (in thousands):

	Year Ended December 31, 2012					
	Products	Subscription	Professional services	Training	Maintenance	Total
Revenues	$ 56,116	$ 9,202	$ 18,058	$ 9,835	$ 36,259	$ 129,470
Cost of revenues	7,982	3,722	16,681	6,095	1,957	36,437
Segment profit	$ 48,134	$ 5,480	$ 1,377	$ 3,740	$ 34,302	93,033
Total operating expenses						94,820
Operating loss						$ (1,787)

	Year Ended December 31, 2011											
	Products		Subscription		Professional services		Training		Maintenance		Total	
Revenues	$	52,345	$	—	$	15,037	$	7,728	$	29,491	$	104,601
Cost of revenues		5,973		—		14,179		5,735		2,539		28,426
Segment profit	$	46,372	$	—	$	858	$	1,993	$	26,952		76,175
Total operating expenses												77,730
Operating loss											$	(1,555)

	Year Ended December 31, 2010											
	Products		Subscription		Professional services		Training		Maintenance		Total	
Revenues	$	43,930	$	—	$	14,609	$	7,762	$	25,599	$	91,900
Cost of revenues		4,937		—		11,903		5,474		2,497		24,811
Segment profit	$	38,993	$	—	$	2,706	$	2,288	$	23,102		67,089
Total operating expenses												71,644
Operating loss											$	(4,555)

Revenue, classified by the major geographic areas in which we operate, is as follows:

	Year Ended December 31,					
	2012		2011		2010	
	(in thousands)					
Revenues:						
US	$	105,065	$	84,769	$	77,696
Europe		13,132		12,042		8,304
Asia		6,176		3,406		2,115
Other		5,097		4,384		3,785
	$	129,470	$	104,601	$	91,900

At December 31, 2012, 2011 and 2010, long-lived assets located in the United States, net of accumulated depreciation and amortization was approximately $9.9 million, $8.8 million and $10.9 million, respectively. At December 31, 2012, 2011 and 2010, long-lived assets located in foreign countries, net of accumulated depreciation and amortization was approximately $333,000, $435,000 and $467,000, respectively. No individual country outside of the United States accounted for more than 10% of our consolidated long-lived assets. Long-lived assets exclude goodwill and intangibles assets, which are not allocated to specific geographies as it is impracticable to do so.

Note 19. Unaudited Quarterly Information

The following tables set forth below unaudited quarterly data. In the opinion of management, the following unaudited quarterly data has been prepared on the same basis as the audited financial statements and includes all adjustments, consisting of normal recurring adjustments, necessary for a fair presentation of the results of operations for the periods presented.

	(in thousands, except share data) Quarter Ended							
	Dec. 31, 2012	Sept. 30, 2012	June 30, 2012	Mar. 31, 2012	Dec. 31, 2011	Sept. 30, 2011	June 30, 2011	Mar. 31, 2011
Total revenues	$ 36,242	$ 36,141	$ 31,068	$ 26,019	$ 29,875	$ 27,258	$ 23,891	$ 23,577
Total cost of revenues	9,706	9,728	9,284	7,719	6,820	6,812	7,211	7,583
Gross profit(1)	26,536	26,413	21,784	18,300	23,055	20,446	16,680	15,994
Total operating expenses	24,673	25,110	23,264	21,773	20,844	19,929	18,008	18,949
Operating income (loss)	1,863	1,303	(1,480)	(3,473)	2,211	517	(1,328)	(2,955)
Total other income and expense	2	(9)	(8)	7	25	20	13	6
Income (loss) before income taxes	1,865	1,294	(1,488)	(3,466)	2,236	537	(1,315)	(2,949)
Income tax (benefit) provision	(43)	22	75	134	(21)	25	58	96
Net income (loss)	$ 1,908	$ 1,272	$ (1,563)	$ (3,600)	$ 2,257	$ 512	$ (1,373)	$ (3,045)
Net income (loss) per common share:								
Basic	$ 0.08	$ 0.05	$ (0.06)	$ (0.15)	$ 0.10	$ 0.02	$ (0.06)	$ (0.13)
Diluted	$ 0.07	$ 0.05	$ (0.06)	$ (0.15)	$ 0.09	$ 0.02	$ (0.06)	$ (0.13)
Weighted average shares outstanding used in the calculation of net income (loss) per common share:								
Basic	25,168	24,988	24,767	23,854	23,361	23,355	23,248	23,041
Diluted	26,864	26,543	24,767	23,854	24,265	24,501	23,248	23,041

(1) Excluding amortization and depreciation.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

February 21, 2013

Guidance Software, Inc.

By /s/ VICTOR T. LIMONGELLI

Victor T. Limongelli
President and Chief Executive Officer
(Principal Executive Officer)

Pursuant to the requirements of the Securities Exchange Act of 1934, this Report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated:

Signature	Title	Date
/s/ VICTOR T. LIMONGELLI **Victor T. Limongelli**	President, Chief Executive Officer and Director *(Principal Executive Officer)*	February 21, 2013
/s/ BARRY J. PLAGA **Barry J. Plaga**	Chief Financial Officer *(Principal Financial Officer)*	February 21, 2013
/s/ RASMUS VAN DER COLFF **Rasmus Van Der Colff**	Chief Accounting Officer *(Principal Accounting Officer)*	February 21, 2013
/s/ SHAWN MCCREIGHT **Shawn McCreight**	Chairman and Chief Technology Officer	February 21, 2013
/s/ KATHLEEN O'NEIL **Kathleen O'Neil**	Director	February 21, 2013
/s/ JEFF LAWRENCE **Jeff Lawrence**	Director	February 21, 2013
/s/ STEPHEN C. RICHARDS **Stephen C. Richards**	Director	February 21, 2013
/s/ ROBERT G. VAN SCHOONENBERG **Robert G. van Schoonenberg**	Director	February 21, 2013

GUIDANCE SOFTWARE, INC.

SCHEDULE II

VALUATION AND QUALIFYING ACCOUNTS

Description	Balance at Beginning of Period	Additions Charged to Costs and Expenses	Additions Charged to Other Accounts	Deductions and Other Adjustments	Balance at End of Period
			(in thousands)		
Allowance for doubtful accounts:					
Year ended December 31, 2010	$ 1,000	$ (48)	$ —	$ (394)	$ 558
Year ended December 31, 2011	$ 558	$ —	$ —	$ (38)	$ 520
Year ended December 31, 2012	$ 520	$ (47)	$ (26)	$ (10)	$ 437
Deferred tax asset valuation allowance:					
Year ended December 31, 2010	$ 11,948	$ 1,510	$ —	$ —	$ 13,458
Year ended December 31, 2011	$ 13,458	$ 994	$ —	$ —	$ 14,452
Year ended December 31, 2012	$ 14,452	$ 8,109	$ —	$	$ 22,561

Exhibit 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in Registration Statement No. 333-140007, 333-167656 and 333-184322 on Form S-8 and Registration Statement No. 333-180849 on Form S-3 of our report dated February 21, 2013, relating to the consolidated financial statements and financial statement schedule of Guidance Software, Inc. and subsidiaries (which report expresses an unqualified opinion), and the effectiveness of Guidance Software, Inc. and subsidiaries' internal control over financial reporting, appearing in the Annual Report on Form 10-K of Guidance Software, Inc. and subsidiaries for the year ended December 31, 2012.

/s/ Deloitte & Touche LLP

Los Angeles, California
February 21, 2013

Exhibit 31.1

CERTIFICATION OF CHIEF EXECUTIVE OFFICER
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Victor T. Limongelli, certify that:

1. I have reviewed this Annual Report on Form 10-K of Guidance Software, Inc.;

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

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

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

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

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

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

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

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

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

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

Date: February 21, 2013

/s/ VICTOR T. LIMONGELLI

Victor T. Limongelli
President and Chief Executive Officer

Exhibit 31.2

CERTIFICATION OF CHIEF FINANCIAL OFFICER
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Barry J. Plaga, certify that:

1. I have reviewed this Annual Report on Form 10-K of Guidance Software, Inc.;

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

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

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

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

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

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

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

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

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

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

Date: February 21, 2013

/s/ BARRY J. PLAGA

Barry J. Plaga
Chief Financial Officer

Exhibit 32.1

CERTIFICATION OF CHIEF EXECUTIVE OFFICER
PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

Pursuant to 18 U.S.C. § 1350, as created by Section 906 of the Sarbanes-Oxley Act of 2002, the undersigned officer of Guidance Software, Inc. (the “Company”) hereby certifies that:

(i) the accompanying Annual Report on Form 10-K of the Company for the period ended December 31, 2012 (the “Report”) fully complies with the requirements of Section 13(a) or Section 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and

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

Dated: February 21, 2013

/s/ VICTOR T. LIMONGELLI
Victor T. Limongelli
President and Chief Executive Officer

A signed original of this written statement required by Section 906 of the Sarbanes-Oxley Act of 2002 (“Section 906”), or other document authenticating, acknowledging, or otherwise adopting the signature that appears in typed form within the electronic version of this written statement required by Section 906, has been provided to Guidance Software, Inc. and will be retained by Guidance Software, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.

Exhibit 32.2

CERTIFICATION OF CHIEF FINANCIAL OFFICER
PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

Pursuant to 18 U.S.C. § 1350, as created by Section 906 of the Sarbanes-Oxley Act of 2002, the undersigned officer of Guidance Software, Inc. (the “Company”) hereby certifies that:

(i) the accompanying Annual Report on Form 10-K of the Company for the period ended December 31, 2012 (the “Report”) fully complies with the requirements of Section 13(a) or Section 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and

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

Dated: February 21, 2013

/s/ BARRY J. PLAGA
Barry J. Plaga
Chief Financial Officer

A signed original of this written statement required by Section 906 of the Sarbanes-Oxley Act of 2002 (“Section 906”), or other document authenticating, acknowledging, or otherwise adopting the signature that appears in typed form within the electronic version of this written statement required by Section 906, has been provided to Guidance Software, Inc. and will be retained by Guidance Software, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.

Corporate Information

Executive Officers
Shawn McCreight
Chairman of the Board of Directors and Chief Technology Officer

Victor Limongelli
President and Chief Executive Officer

Barry Plaga
Chief Financial Officer

Mark Harrington
General Counsel and Corporate Secretary

Corporate Headquarters
Guidance Software
215 North Marengo Avenue, Suite 250
Pasadena, CA 91101
(626) 229-9191
www.guidancesoftware.com

Stock Listing
Guidance Software common stock trades on the NASDAQ National Market under the symbol GUID

Form 10-K
A copy of our Form 10-K for fiscal year 2012 filed with the Securities and Exchange Commission, is available at no charge by contacting Investor Relations or on our website at www.guidancesoftware.com

Investor Relations
Barry Plaga, Chief Financial Officer
investorrelations@guidancesoftware.com

Transfer Agent and Registrar
Computershare Trust Company N.A.
Shareholder Relations Department
250 Royal Street,
Canton, MA 02021
(800) 962-4284

Board of Directors
Shawn McCreight
Chairman of the Board of Directors and Chief Technology Officer
Guidance Software

Victor Limongelli
Director
President and Chief Executive Officer
Guidance Software

Kathleen O'Neil
Lead Independent Director
Chair, Nominating and Governance Committee

President and Chief Executive Officer
Liberty Street Advisors, LLC

Former Chief Financial Officer and Chief Operating Officer
Federal Reserve Bank of New York

Jeff Lawrence
Director

Founder, Clivia Systems
Co-founder, Common Grant Application

Former Chief Technical Officer
Network Communications Group, Intel Corporation

Stephen Richards
Director
Chair, Audit Committee

Former Chief Operating Officer and Chief Financial Officer
McAfee, Inc.

Former Chief Online Trading Officer
E*Trade Group, Inc.

Robert G. van Schoonenberg
Director
Chair, Compensation Committee

Former Executive Vice President, Chief Legal Officer, and Secretary of the Board
Avery Dennison Corporation

Annual Meeting
The Annual Meeting of Shareholders will be held at 8:30 am Thursday, May 16, 2013, at the Pasadena Hilton, 168 South Los Robles Avenue, Pasadena, CA 91101

Forward Looking Statements
This document contains forward-looking statements within the meaning of the safe-harbor provisions of the Private Securities Litigation Reform Act of 1995.

Investors are cautioned that forward-looking statements in this document involve risks and uncertainties that could cause actual results to differ materially from current expectations.

There can be no assurances that strategic acquisitions of the Company, including the acquisition of CaseCentral, will ultimately be successful for the Company.

There are also risks that the company's pursuit of providing network security and eDiscovery technology might not be successful, or that if successful, it will not materially enhance the company's financial performance;

that the company could fail to retain key employees;

that changes in customer requirements and other general economic and political uncertainties could impact the company's relationship with its customers;

that delays in product development, competitive pressures or technical difficulties could impact timely delivery of next-generation products;

and other risks and uncertainties that are described from time to time in Guidance Software's periodic reports and registration statements filed with the Securities and Exchange Commission.

Guidance Software specifically disclaims any responsibility for updating these forward-looking statements.

Legal Counsel
Latham & Watkins LLP
355 South Grand Avenue,
Los Angeles, CA 90071-1560

Independent Registered Public Accountants
Ernst & Young LLP
725 South Figueroa St.
Los Angeles, CA 90017

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