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

FORM 10-Q

(Mark One)

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

For the quarterly period ended September 30, 2023

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: 000-50644

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

Delaware	**77-0492262**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

3240 Bayshore Blvd., Brisbane, California 94005
(Address of principal executive offices)

(415) 657-5500
(Registrant's telephone number, including area code)

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock ($0.001 par value)	**CUTR**	**The NASDAQ Stock Market, LLC**

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 every Interactive Data File required to be submitted 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 such files). Yes ☒ No ☐

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

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

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

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

The number of shares of Registrant's common stock issued and outstanding as of February 29, 2024, was 19,960,622.

CUTERA, INC.

FORM 10-Q

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In this Quarterly Report on Form 10-Q, “Cutera,” “the Company,” “we,” “us” and “its” refer to Cutera, Inc. and its consolidated subsidiaries.

This report may contain references to its proprietary intellectual property, including among others, trademarks for its systems and ancillary products, “CUTERA®,” “ACUTIP 500®,” “AVI™,” “AVI360®,” “AVIANALYTICS™,” “AVICARE®,” “AVICLEAR®,” “AVICOOL®, “AVIREWARDS™,” “COOLGLIDE®,” “CUCF®,” “CUTERA UNIVERSITY CLINICAL FORUM®,” “ENLIGHTEN®,” “EXCEL HR®,” “EXCEL V®,” “EXCEL V+™,” “GENESIS™,” “LASER GENESIS™,” “LIMELIGHT®,” “MYQ®,” “PEARL®,” “PICO GENESIS®,” “PICO TONING®,” “PROWAVE 770®,” “SOLERA®,” “TITAN®,” “TRUBODY®,” “TRUFLEX™,” “TRUSCULPT®,” “TRUSCULPT FLEX®,” “TRUSCULPT ID®,” “VANTAGE®,” and “XEO®.”

These trademarks and trade names are the property of Cutera or the property of its consolidated subsidiaries and are protected under applicable intellectual property laws. Solely for convenience, its trademarks and tradenames referred to in this Quarterly Report on Form 10-Q may appear without the ® or symbols, but such references are not intended to indicate in any way that the Company will not assert, to the fullest extent under applicable law, its rights to these trademarks and tradenames.

PART I. FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS (UNAUDITED)

CUTERA, INC.

CONDENSED CONSOLIDATED BALANCE SHEETS

(In thousands, except share, per share data and par value)
(Unaudited)

	September 30, 2023	December 31, 2022
Assets		
Current assets:		
Cash and cash equivalents	$ 179,516	$ 145,924
Marketable investments	—	171,390
Accounts receivable, net of allowance for credit losses of $7,985 and $2,497, respectively	49,829	45,562
Inventories, net	61,847	63,628
Other current assets and prepaid expenses	19,415	24,036
Restricted cash	700	700
Total current assets	311,307	451,240
Property and equipment, net	69,923	40,368
Deferred tax assets	528	590
Goodwill	1,339	1,339
Operating lease right-of-use assets	10,690	12,831
Other long-term assets	12,846	14,620
Total assets	$ 406,633	$ 520,988
Liabilities and stockholders' deficit		
Current liabilities:		
Accounts payable	$ 31,373	$ 33,736
Accrued liabilities	47,043	57,452
Operating lease liabilities	2,511	2,810
Deferred revenue	11,479	11,841
Total current liabilities	92,406	105,839
Deferred revenue, net of current portion	1,629	1,657
Operating lease liabilities, net of current portion	9,466	11,352
Convertible notes, net of unamortized debt issuance costs of $10,996 and $12,666, respectively	418,129	416,459
Other long-term liabilities	1,088	862
Total liabilities	522,718	536,169
Commitments and Contingencies (Note 13)		
Stockholders' deficit:		
Common stock, $0.001 par value; authorized: 50,000,000 shares; issued and outstanding: 19,948,803 and 19,668,603 shares at September 30, 2023 and December 31, 2022, respectively	20	20
Additional paid-in capital	130,008	125,406
Accumulated other comprehensive income (loss)	—	(94)
Accumulated deficit	(246,113)	(140,513)
Total stockholders' deficit	(116,085)	(15,181)
Total liabilities and stockholders' deficit	$ 406,633	$ 520,988

See Accompanying Notes to Condensed Consolidated Financial Statements.

CUTERA, INC.

CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(In thousands, except per share data)
(Unaudited)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	**2022**	**2023**	**2022**
Net revenue:				
Products	$ 40,989	$ 56,540	$ 146,285	$ 167,195
Service	5,489	6,268	16,544	17,851
Total net revenue	46,478	62,808	162,829	185,046
Cost of revenue:				
Products	36,586	25,255	98,696	74,066
Service	3,435	3,305	9,961	9,900
Total cost of revenue	40,021	28,560	108,657	83,966
Gross profit	6,457	34,248	54,172	101,080
Operating expenses:				
Sales and marketing	25,808	26,488	88,591	78,433
Research and development	4,592	6,389	16,844	19,747
General and administrative	17,004	10,804	47,448	35,554
Total operating expenses	47,404	43,681	152,883	133,734
Loss from operations	(40,947)	(9,433)	(98,711)	(32,654)
Interest and other expense, net:				
Amortization of debt issuance costs	(561)	(400)	(1,670)	(917)
Interest on convertible notes	(2,939)	(1,739)	(8,836)	(3,666)
Loss on extinguishment of convertible notes	—	—	—	(34,423)
Interest income	2,288	1,141	6,946	1,536
Other expense, net	(1,948)	(876)	(2,564)	(3,554)
Total interest and other expense, net	(3,160)	(1,874)	(6,124)	(41,024)
Loss before income taxes	(44,107)	(11,307)	(104,835)	(73,678)
Income tax expense	167	827	765	874
Net loss	$ (44,274)	$ (12,134)	$ (105,600)	$ (74,552)
Net loss per share:				
Basic	$ (2.22)	$ (0.62)	$ (5.32)	$ (3.95)
Diluted	$ (2.22)	$ (0.62)	$ (5.32)	$ (3.95)
Weighted-average number of shares used in per share calculation:				
Basic	19,932	19,593	19,858	18,897
Diluted	19,932	19,593	19,858	18,897

See Accompanying Notes to Condensed Consolidated Financial Statements.

CUTERA, INC.

CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE LOSS
(In thousands)
(Unaudited)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	**2022**	**2023**	**2022**
Net loss	$ (44,274)	$ (12,134)	$ (105,600)	$ (74,552)
Other comprehensive income (loss):				
Net change in unrealized gain (loss) on available-for-sale investments, net of tax	(4)	(153)	94	(336)
Other comprehensive income (loss), net of tax	(4)	(153)	94	(336)
Comprehensive loss	$ (44,278)	$ (12,287)	$ (105,506)	$ (74,888)

See Accompanying Notes to Condensed Consolidated Financial Statements.

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CUTERA, INC.

CONDENSED CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY (DEFICIT)

(In thousands, except share amounts)

(Unaudited)

Three and Nine Months Ended September 30, 2023

	Common Stock		Additional Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive Income (Loss)	Total Stockholders' Deficit
	Shares	Amount				
Balance at December 31, 2022	19,668,603	$ 20	$ 125,406	$ (140,513)	$ (94)	$ (15,181)
Issuance of common stock for employee purchase plan	51,786	—	711	—	—	711
Exercise of stock options	42,234	—	612	—	—	612
Issuance of common stock in settlement of restricted and performance stock units, net of shares withheld for employee taxes	186,180	—	(3,273)	—	—	(3,273)
Stock-based compensation expense	—	—	6,552	—	—	6,552
Net change in unrealized gain (loss) on available-for-sale investments	—	—	—	—	94	94
Net loss	—	—	—	(105,600)	—	(105,600)
Balance at September 30, 2023	19,948,803	$ 20	$ 130,008	$ (246,113)	$ —	$ (116,085)

	Common Stock		Additional Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive Income (Loss)	Total Stockholders' Deficit
	Shares	Amount				
Balance at June 30, 2023	19,901,600	$ 20	$ 128,014	$ (201,839)	$ 4	$ (73,801)
Issuance of common stock for employee purchase plan	—	—	—	—	—	—
Exercise of stock options	33,000	—	465	—	—	465
Issuance of common stock in settlement of restricted and performance stock units, net of shares withheld for employee taxes	14,203	—	(87)	—	—	(87)
Stock-based compensation expense	—	—	1,616	—	—	1,616
Net change in unrealized gain (loss) on available-for-sale investments	—	—	—		(4)	(4)
Net loss	—	—	—	(44,274)	—	(44,274)
Balance at September 30, 2023	19,948,803	$ 20	$ 130,008	$ (246,113)	$ —	$ (116,085)

See Accompanying Notes to Condensed Consolidated Financial Statements.

CUTERA, INC.

CONDENSED CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY(DEFICIT)

(In thousands, except share amounts)

(Unaudited)

Three and Nine Months Ended September 30, 2022

	Common Stock		Additional Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive Loss	Total Stockholders' Equity
	Shares	Amount				
Balance at December 31, 2021	17,995,344	$ 18	$ 114,724	$ (58,173)	$ — —	$ 56,569
Issuance of common stock for employee purchase plan	27,810	—	1,063	—	—	1,063
Exercise of stock options	27,023	—	624	—	—	624
Issuance of common stock in settlement of restricted and performance stock units, net of shares withheld for employee taxes	203,226	—	(4,820)	—	—	(4,820)
Stock-based compensation expense	—	—	13,021	—	—	13,021
Purchase of capped call, inclusive of issuance cost of $353	—	—	(32,024)	—	—	(32,024)
Issuance of common stock in repayment of convertible notes	1,354,348	2	55,947	—	—	55,949
Net change in unrealized gain (loss) on available-for-sale investments	—	—	—	—	(336)	(336)
Net loss	—	—	—	(74,552)	—	(74,552)
Balance at September 30, 2022	19,607,751	$ 20	$ 148,535	$ (132,725)	$ (336)	$ 15,494

	Common Stock		Additional Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive Loss	Total Stockholders' Equity
	Shares	Amount				
Balance at June 30, 2022	19,560,163	$ 20	$ 144,628	$ (120,591)	$ (183)	$ 23,874
Issuance of common stock for employee purchase plan	—	—	—	—	—	—
Exercise of stock options	12,179	—	248	—	—	248
Issuance of common stock in settlement of restricted and performance stock units, net of shares withheld for employee taxes	35,409	—	(586)	—	—	(586)
Stock-based compensation expense	—	—	4,245		—	4,245
Purchase of capped call	—	—	—			—
Issuance of common stock in extinguishment of convertible notes	—	—	—	—	—	—
Net change in unrealized gain (loss) on available-for-sale investments	—	—	—		(153)	(153)
Net loss				(12,134)		(12,134)
Balance at September 30, 2022	19,607,751	$ 20	$ 148,535	$ (132,725)	$ (336)	$ 15,494

See Accompanying Notes to Condensed Consolidated Financial Statements.

CUTERA, INC.

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS

(In thousands)
(Unaudited)

	Nine Months Ended September 30, 2023	2022
Cash flows from operating activities		
Net loss	$ (105,600)	$ (74,552)
Adjustments to reconcile net loss to net cash used in operating activities:		
Stock-based compensation	6,552	13,021
Depreciation and amortization	5,225	1,603
Amortization of contract acquisition costs	7,085	1,815
Amortization of debt issuance costs	1,670	917
Unrealized gain on foreign exchange forward	—	(292)
Deferred tax assets	62	152
Provision for credit losses	5,488	677
Loss on sale of property and equipment	—	86
Loss on extinguishment of convertible notes	—	34,423
Accretion of discount on investment securities and investment income, net	1,048	—
Changes in assets and liabilities:		
Accounts receivable	(9,755)	(5,104)
Inventories	1,781	(28,615)
Other current assets and prepaid expenses	4,352	(8,835)
Other long-term assets	(5,642)	(3,644)
Accounts payable	(4,735)	20,442
Accrued liabilities	(10,963)	(3,684)
Operating leases, net	(44)	46
Deferred revenue	(390)	1,576
Net cash used in operating activities	(103,866)	(49,968)
Cash flows from investing activities		
Acquisition of property and equipment	(30,642)	(14,107)
Proceeds from maturities of marketable investments	193,903	47,000
Purchase of marketable investments	(23,467)	(252,282)
Net cash provided by (used in) investing activities	139,794	(219,389)
Cash flows from financing activities		
Proceeds from exercise of stock options and employee stock purchase plan	1,323	1,687
Taxes paid related to net share settlement of equity awards	(3,273)	(4,820)
Purchase of capped call	—	(31,671)
Payment of issuance costs of capped calls	—	(353)
Proceeds from issuance of convertible notes	—	240,000
Payment of issuance costs of convertible notes	—	(7,602)
Extinguishment of convertible notes	—	(45,777)
Payments on finance lease obligations	(386)	(391)
Net cash provided by (used in) financing activities	(2,336)	151,073
Net increase (decrease) in cash, cash equivalents and restricted cash	33,592	(118,284)
Cash, cash equivalents, and restricted cash at beginning of period	146,624	164,864
Cash, cash equivalents, and restricted cash at end of period	$ 180,216	$ 46,580
Supplemental non-cash investing and financing activities:		
Assets acquired under finance lease	$ 1,428	$ 689
Assets acquired under operating lease	$ 57	$ 549
Transfer of inventory to property and equipment	$ —	$ 12,180
Acquisition of property and equipment	$ 6,503	$ 5,843
Supplemental disclosure of cash flow information:		
Cash paid for interest	$ 6,509	$ 2,685
Cash paid for income taxes	$ 1,160	$ 1,909

See Accompanying Notes to Condensed Consolidated Financial Statements.

CUTERA, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

Note 1. Summary of Significant Accounting Policies

Description of Operations and Principles of Consolidation

Cutera, Inc. (“Cutera” or the “Company”) develops, manufactures, distributes, and markets energy-based product platforms for medical practitioners, enabling them to offer treatments to their customers. In addition, the Company distributes third-party manufactured skincare products and Secret PRO and Secret RF systems and consumables. The Company currently markets the following system platforms: *AviClear, enlighten, excel, truSculpt, Secret PRO*, *Secret RF,* and *xeo*. These platforms enable medical practitioners to perform procedures including treatment for acne, body contouring, skin resurfacing and revitalization, hair and tattoo removal, removal of benign pigmented lesions, and vascular conditions. Several of the Company’s systems offer multiple hand pieces and applications, providing customers the flexibility to upgrade their systems. The sales of systems, system upgrades, and hand pieces (collectively “Systems” revenue); the leasing of *AviClear* devices for acne treatment (“AviClear” revenue); the replacement hand pieces, *Titan, truSculpt* 3*D, truSculpt* and *truFlex* cycle refills, as well as single use disposable tips applicable to *Secret PRO,* and *Secret RF* (“Consumables” revenue); and the distribution of third-party manufactured skincare products (“Skincare”) revenue; are collectively classified as “Products” revenue. In addition to Products revenue, the Company generates revenue from the sale of post-warranty service contracts, parts, detachable hand piece replacements (except for *Titan, truSculpt 3D, truSculpt* and *truFlex)* and service labor for the repair and maintenance of products that are out of warranty, all of which are collectively classified as “Service” revenue.

The Company’s corporate headquarters and U.S. operations are located in Brisbane, California, where the Company conducts manufacturing, warehousing, research and development, regulatory, sales and marketing, service, and administrative activities. The Company also maintains regional distribution centers (“RDCs”) in select locations across the U.S. These RDCs serve as forward warehousing for systems and service parts in various geographies. The Company markets, sells and services the Company’s products through direct sales and service employees in North America (including Canada), Australia, Austria, Belgium, France, Germany, Hong Kong, Japan, the Netherlands, Spain, Switzerland, and the United Kingdom. Sales and services outside of these direct markets are made through a worldwide distributor network in over 39 countries. The condensed consolidated financial statements include the accounts of the Company and its subsidiaries.

Liquidity and Management’s Plans

When preparing financial statements, management has the responsibility to evaluate if the Company has adequate liquidity to continue to operate for the next twelve months. In performing this assessment, management considered the Company's current financial condition and liquidity sources, including current funds, forecasted future cash flows and unconditional obligations due over the next twelve months. In addition, management evaluated the history of the Company's financial performance, and determined that the Company has had a historic trend of operating losses, which continues to have an unfavorable impact on the Company's overall liquidity. Most recently, the Company reported net losses of $44.3 million and $105.6 million for the three and nine months ended September 30, 2023, respectively. The Company also reported operating losses for the year ended December 31, 2022.

The Company’s continued operations will depend on several factors, including but not limited to, growth of revenues from its revised business model for AviClear, maintaining or increasing revenues from sales of legacy systems, consumables and services, achieving cost savings as a result of workforce reductions implemented in the fourth quarter of 2023, restructuring of supplier and manufacturing relationships, and initiatives to improve inventory and receivables management. Failure to increase revenue, achieve cost savings, raise additional financing or re-finance the existing convertible notes when they become due, would adversely affect the Company’s ability to achieve its intended business objectives. There can be no assurances that financing will be available on terms favorable to the Company, if at all, and delays may occur in completing the operating activities.

Basis of Presentation

In the opinion of the Company, the accompanying unaudited condensed consolidated financial statements included in this report reflect all adjustments necessary for a fair statement of its condensed consolidated balance sheets as of September 30, 2023 and December 31, 2022, and its condensed consolidated statements of operations, condensed consolidated statements of comprehensive loss, condensed consolidated statements of changes in stockholders' equity (deficit), and condensed consolidated statements of cash flows, for the three and nine months ended September 30, 2023, and 2022, respectively. The December 31, 2022 condensed consolidated balance sheet was derived from audited financial statements, but does not include all disclosures required by generally accepted accounting principles in the United States of America (“GAAP”). The results for interim periods are not necessarily indicative of results for the entire year or any other interim period. Presentation of certain prior year balances have been updated to conform with the current year presentation. All intercompany accounts and transactions have been eliminated upon consolidation. The accompanying condensed consolidated financial statements should be read in conjunction with the Company's previously filed audited financial statements and the related notes thereto included in the Company's annual report on Form 10-K for the year ended December 31, 2022, filed with the Securities and Exchange Commission (the “SEC”) on April 7, 2023, and as amended on May 1, 2023.

Reclassification

Certain reclassifications of prior period amounts have been made in the Company's condensed consolidated statement of operations to conform to the current period presentation. These reclassifications had no effect on the reported results of operations.

Risks and Uncertainties

The Company's future results of operations involve a number of risks and uncertainties. Factors that could affect the Company's future operating results and cause actual results to vary materially from expectations include, but are not limited to, rapid technological change, continued acceptance of the Company's products, stability of global financial markets, cybersecurity breaches and other disruptions that could compromise the Company's information or results, business disruptions that are caused by natural disasters or pandemic events, management of international activities, competition from substitute products and larger companies, the Company's ability to obtain and maintain regulatory approvals, government regulations and oversight, patent and other types of litigation, the Company's ability to protect proprietary technology from counterfeit versions of the Company's products and its intellectual property rights generally, the ability to generate positive operating results from the use of its property and equipment, the successful execution of new product launches, the continuation of strategic relationships, such as the Company's distribution of third-party products, and dependence on key individuals.

Accounting Policies

These unaudited condensed consolidated financial statements are prepared in accordance with the rules and regulations of the SEC applicable to interim financial statements. While these statements reflect all normal recurring adjustments that are, in the opinion of management, necessary for fair presentation of the results of the interim period, they do not include all of the information and footnotes required by GAAP for complete financial statements. The Company uses the same accounting policies in preparing quarterly and annual financial statements.

Leases

The Company incurs costs to fulfill its lease agreement obligations with its AviClear device lessees. These costs consist of freight, installation, and training. In addition to these mobilization costs, the Company incurs commission costs associated with the placement of the AviClear device. The Company capitalizes commission costs and has made a policy election to capitalize the mobilization costs.

In the nine months ended September 30, 2023, the Company capitalized $2.9 million of mobilization costs and $3.0 million of deferred commission costs related to placements of the AviClear device. These costs are recorded in Other long-term assets in the Company's condensed consolidated balance sheets and will be amortized over the expected lease term. The amortization of the mobilization costs and amortization of deferred commission costs are recorded in cost of revenue and sales and marketing, respectively, in the Company's condensed consolidated statement of operations. Total capitalized mobilization costs were $2.6 million and $1.3 million as of September 30, 2023 and December 31, 2022. Total capitalized commissions as of September 30, 2023, and December 31, 2022, were $3.4 million and $3.3 million, respectively, and are included in Other long-term assets in the Company's condensed consolidated balance sheet.

Use of Estimates

The preparation of condensed consolidated financial statements in conformity with GAAP requires the Company's management to make estimates and assumptions that affect the amounts reported of assets and liabilities and disclosure of contingent assets and liabilities at the date of the condensed consolidated financial statements and the accompanying notes, and the reported amounts of revenue and expenses during the reported periods. Actual results could differ materially from those estimates.

On an ongoing basis, management evaluates its estimates, including those related to warranty obligations, sales commissions, allowance for credit losses, sales allowances, fair value of investments, valuation of inventories, fair value of goodwill, useful lives of property and equipment, impairment testing for long-lived assets, implicit and incremental borrowing rates related to the Company's leases, variables used in calculating the fair value of the Company's equity awards, expected achievement of performance-based vesting criteria and management performance bonuses, assumptions used in operating and sales-type lease classifications, the standalone selling price of the Company's products and services, the period of benefit used to capitalize and amortize contract acquisition costs, variable considerations, contingent liabilities, recoverability of deferred tax assets, residual value of leased equipment, lease term and effective income tax rates. Management bases estimates on historical experience and on various other assumptions that are believed to be reasonable, the results of which form the basis for making judgments about the carrying values of assets and liabilities.

Distribution of Third-Party Products

The Company generates revenue from the distribution of skincare products, which are manufactured by ZO Skin Health, Inc. ("ZO"), and sold in the Japanese market. In the nine months ended September 30, 2023, and 2022, revenue from the distribution of skincare products was $24.7 million and $30.7 million, respectively, representing 15% and 17% of the Company's consolidated revenue, respectively.

On February 28, 2024, the Company and its Japanese subsidiary, Cutera KK, entered into a Business Transfer and Termination Agreement (the "Termination Agreement") with ZO USA and its Japanese subsidiary, ZO Skin Health GK ("ZO Japan" and together with ZO USA and their affiliates, "ZO"), which, among other things, (i) terminates all agreements related to the distribution by the Company of ZO's products in Japan effective immediately, (ii) provides for the orderly transition of the distribution of ZO products to ZO, (iii) transfers certain Company employees dedicated to the distribution of ZO products to ZO, (iv) transfers certain customer contracts related to ZO products from the Company to ZO and (v) transfers certain inventory and assets related to the distribution of ZO products from the Company to ZO. The Termination Agreement requires ZO to pay the Company $5.75 million within three business days of the execution of the Termination Agreement and make a second payment of $5.75 million, less any offsets under the Termination Agreement (including, but not limited to, 42.2% of the Company's net revenue for sales of ZO products under the Distribution Agreement between January 1, 2024 and February 28, 2024), upon the earlier of (a) the completion the transition of regulatory and distribution activities such that ZO is able to fulfill product orders by customers in Japan, as determined by ZO and the Company, and (b) June 14, 2024.

The Company generates revenue from the distribution of the Secret systems, which are manufactured by Ilooda Co. Ltd. ("Ilooda"). The Company is the exclusive distributor for all systems sold in the United States, Canada, the United Kingdom; the exclusive distributor for certain systems in France, and Spain; and the non-exclusive distributor for systems sold in Austria and Germany. In both the nine months ended September 30, 2023, and 2022, revenue from the distribution of Secret products represented 13% of the Company's consolidated revenue. The Company's Ilooda distribution agreement expires in June 30, 2026.

Note 2. Cash, Cash Equivalents, Restricted Cash and Marketable Investments

The Company determines the appropriate classification of its investments in marketable securities at the time of purchase and re-evaluates such designation at each balance sheet date. The Company's marketable securities have been classified and accounted for as available-for-sale securities. Investments with remaining maturities of more than one year are viewed by the Company as available to support current operations and are classified as current assets under the caption marketable investments in the accompanying consolidated balance sheets. Investments in available-for-sale debt securities are measured at fair value under the guidance in ASC 320. Credit losses on impaired available-for-sale debt securities are recognized through an allowance for credit losses. Under ASC 326, credit losses recognized on an available-for-sale debt security should not reduce the net carrying amount of the available-for-sale debt security below its fair value. Any changes in fair value unrelated to credit are recognized as an unrealized gain or loss in other comprehensive income.

The following table summarizes the Company's cash and cash equivalents, restricted cash, and marketable investments (in thousands):

September 30, 2023	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Market Value
Cash and cash equivalents	N/A	N/A	N/A	$ 179,516
Current restricted cash	N/A	N/A	N/A	700
Cash, cash equivalents, and restricted cash as reported within the Condensed Consolidated Statements of Cash Flows	N/A	N/A	N/A	180,216
Total				$ 180,216

December 31, 2022	Amortized Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Market Value
Cash and cash equivalents	N/A	N/A	N/A	$ 145,924
Current restricted cash	N/A	N/A	N/A	700
Cash, cash equivalents, and restricted cash as reported within the Condensed Consolidated Statements of Cash Flows	N/A	N/A	N/A	146,624
Marketable investments - U.S. Treasury	171,484	8	(102)	171,390
Total				$ 318,014

At September 30, 2023 and December 31, 2022, net unrealized losses were zero and $0.1 million, respectively, and were related to interest rate changes on available-for-sale marketable investments. The Company has concluded that it is more-likely-than-not that the securities will be held until maturity or the recovery of their cost basis. No securities were in an unrealized loss position for more than 12 months. The restricted cash balance relates to an outstanding letter of credit provided to a supplier.

Note 3. Fair Value of Financial Instruments

The Company measures certain financial assets at fair value, including cash and cash equivalents.

The fair value hierarchy contains the following three levels of inputs that may be used to measure fair value, in accordance with ASC 820:

- Level 1 inputs, which include quoted prices in active markets for identical assets or liabilities;

- Level 2 inputs, which include observable inputs other than Level 1 inputs, such as quoted prices for similar assets or liabilities, quoted prices for identical or similar assets or liabilities in markets that are not active, or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the asset or liability. When sufficient quoted pricing for identical securities is not available, the Company uses market pricing and other observable market inputs for similar securities obtained from various third-party data providers. These inputs either represent quoted prices for similar assets in active markets or have been derived from observable market data; and

- Level 3 inputs, which include unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the underlying asset or liability. Level 3 assets and liabilities include those whose fair value measurements are determined using pricing models, discounted cash flow methodologies, or similar valuation techniques, as well as significant management judgment or estimation.

In determining fair value, the Company utilizes valuation techniques that maximize the use of observable inputs and minimize the use of unobservable inputs to the extent possible as well as considering counterparty credit risk in its assessment of fair value.

As of September 30, 2023, financial assets measured and recognized at fair value on a recurring basis and classified under the appropriate level of the fair value hierarchy as described above were as follows (in thousands):

September 30, 2023	Level 1		Level 2	
Cash equivalents:				
Money market funds	$	164,126	$	—
Total	$	164,126	$	—

As of December 31, 2022, financial assets and liabilities measured and recognized at fair value on a recurring basis and classified under the appropriate level of the fair value hierarchy as described above were as follows (in thousands):

December 31, 2022	Level 1		Level 2	
Cash equivalents:				
Money market funds	$	26,408	$	—
Marketable investments:				
Available-for-sale securities		171,390		—
Derivative liabilities:				
Foreign exchange forward		—		(558)
Total	$	197,798	$	(558)

See Note 14 - Debt for the carrying amount and estimated fair value of the Company's 2.25% Convertible Senior Notes due 2026 (the "2026 Notes"), the 2.25% Convertible Senior Notes due 2028 (the "2028 Notes"), and the 4.00% Convertible Senior Notes due 2029 (the "2029 Notes").

Note 4. Derivative Instruments

The Company uses foreign currency exchange forward contracts to manage the impact of currency exchange fluctuations on earnings and cash flow. The Company does not enter into derivative instruments for speculative purposes. The Company is exposed to potential credit loss in the event of nonperformance by counterparties on its outstanding derivative instruments but the Company does not anticipate nonperformance by any of its counterparties. Should a counterparty default, the Company's maximum loss exposure would be the potential asset balance of the instrument.

At September 30, 2023, the Company did not have any foreign currency exchange forward contracts outstanding. At December 31, 2022, the following foreign exchange forward was outstanding (in thousands):

December 31, 2022	Classification	Foreign Exchange Forward	
Gross notional amount	N/A	$	6,128
Fair value	Accrued liabilities	$	558
Unrealized loss	Other income (expense), net	$	(558)

Note 5. Balance Sheet Details

Inventories, net

As of September 30, 2023 and December 31, 2022, inventories consist of the following (in thousands):

	September 30, 2023		December 31, 2022	
Raw materials	$	37,216	$	36,323
Work in process		1,349		2,117
Finished goods		23,282		25,188
Total	$	61,847	$	63,628

Other current assets and prepaid expenses

Other current assets and a prepaid expenses, consists of the following (in thousands):

	September 30, 2023	December 31, 2022
Deposits with vendors	$ 10,830	$ 13,917
Foreign tax receivable	4,683	7,147
Prepayments	3,902	2,972
Total	$ 19,415	$ 24,036

Property and Equipment, net

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

	September 30, 2023	December 31, 2022
Leasehold improvements	$ 819	$ 793
AviClear devices	40,647	19,904
Office equipment and furniture	1,874	1,936
Machinery and equipment	6,879	5,106
Assets under construction	29,570	17,876
	79,789	45,615
Less: Accumulated depreciation	(9,866)	(5,247)
Property and equipment, net	$ 69,923	$ 40,368

The Company's market capitalization has been declining in 2023, which created a triggering event in the three months ended September 30, 2023, and required the Company to review goodwill and long-lived assets including property and equipment for impairment. The Company concluded that an impairment was not required in the three months ended September 30, 2023. An impairment may potentially result in partial or full write-down of these balances. The Company will continue to monitor financial results and market capitalization. Should the financial results continue to deteriorate, an impairment of goodwill and property and equipment may become reasonably possible to record in the future. The Company's goodwill balance as of each of September 30, 2023 and December 31, 2022 was $1.3 million.

Refer to *Note 16. Subsequent Events* regarding the change in classification from December 31, 2023 of AviClear parts and devices not placed in service.

Accrued Liabilities

As of September 30, 2023 and December 31, 2022, accrued liabilities consist of the following (in thousands):

	September 30, 2023	December 31, 2022
Compensation and payroll-related accruals	$ 16,106	$ 18,951
Sales and marketing accruals	4,877	5,347
Liability for inventory in transit	3,490	7,028
Accrued interest	3,469	1,851
Product warranty	2,792	3,254
Accrued sales tax	4,854	9,066
Other accrued liabilities	11,455	11,955
Total	$ 47,043	$ 57,452

Note 6. Product Warranty

The Company has a direct field service organization in North America (including Canada). Internationally, the Company provides direct service support in Australia, Austria, Belgium, France, Germany, Hong Kong, Japan, the Netherlands, Spain, Switzerland, and the United Kingdom. In several other countries, where the Company does not have a direct presence, the Company provides service through a network of distributors and third-party service providers.

After the original warranty period, maintenance and support are offered on an extended service contract basis or on a time and materials basis. The Company provides the estimated cost to repair or replace products under standard warranty at the time of sale. Costs incurred in connection with extended service contracts are generally recognized at the time when costs are incurred.

The following table provides the changes in the product warranty accrual for the three and nine months ended September 30, 2023 and 2022 (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
Beginning Balance	$ 3,104	$ 4,189	$ 3,254	$ 3,947
Add: Accruals for warranties issued during the period	1,076	1,235	3,626	4,467
Less: Settlements made during the period	(1,388)	(1,622)	(4,088)	(4,612)
Ending Balance	$ 2,792	$ 3,802	$ 2,792	$ 3,802

Note 7. Deferred Revenue

The Company records deferred revenue when revenue is to be recognized subsequent to invoicing. For extended service contracts, the Company generally invoices customers at the beginning of the extended service contract term. The Company's extended service contracts typically have one to three-year terms. Deferred revenue also includes payments for training not yet delivered. Approximately 88% of the Company's deferred revenue balance of $13.1 million as of September 30, 2023 will be recognized over the next 12 months.

The following table provides changes in the deferred revenue balance for the three and nine months ended September 30, 2023 and 2022 (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
Beginning balance	$ 14,007	$ 11,527	$ 13,498	$ 10,825
Add: Payments received from current period sales	5,005	5,738	15,140	14,755
Less: Revenue recognized from current period sales	(405)	(487)	(4,902)	(4,569)
Less: Revenue recognized from beginning balance	(5,499)	(4,377)	(10,628)	(8,610)
Ending balance	$ 13,108	$ 12,401	$ 13,108	$ 12,401

The fixed annual license fees received related to the AviClear contracts are deferred and recognized over the annual lease periods. The AviClear deferred license fee balance included in the total deferred revenue balance at September 30, 2023, and December 31, 2022, was $3.2 million and $2.3 million, respectively.

Costs for extended service contracts were $2.1 million and $5.8 million for the three and nine months ended September 30, 2023, respectively, and were $1.4 million and $4.6 million for three and nine months ended September 30, 2022, respectively.

Note 8. Revenue

Revenue is recognized upon transfer of control of promised products or services to customers in an amount that reflects the consideration to which the Company expects to be entitled in exchange for promised goods or services. The Company's performance obligations are satisfied either over time or at a point in time. Revenue from performance obligations that are transferred to customers over time accounted for approximately 13% and 10% of the Company's total revenue for the three and nine months ended September 30, 2023, respectively, and 8% and 7% for the three and nine months ended September 30, 2022, respectively.

The Company has certain system sale arrangements that contain multiple products and services. For these bundled sale arrangements, the Company accounts for individual products and services as separate performance obligations if they are distinct. The Company’s products and services are distinct if a customer can benefit from the product or service on its own or with other resources that are readily available to the customer, and if the Company’s promise to transfer the products or service to the customer is separately identifiable from other promises in the sale arrangements. The Company’s system sale arrangements can include all or a combination of the following performance obligations: the system and software license (considered one performance obligation), system accessories (hand pieces), training, AviClear license agreements, other accessories, extended service contracts, marketing services, and time and materials services.

For the Company’s system sale arrangements that include an extended service contract, the period of service commences at the expiration of the Company’s standard warranty offered at the time of the system sale. The Company considers the extended service contracts terms in the arrangements that are legally enforceable to be performance obligations. Other than extended service contracts and marketing services, which are satisfied over time, the Company generally satisfies all performance obligations at a point in time. Systems, system accessories (hand pieces), service contracts, training, and time and materials services are also sold on a stand-alone basis. For contracts with multiple performance obligations, the Company allocates the transaction price of the contract to each performance obligation on a relative standalone selling price basis.

The Company leases the AviClear device to customers and receives a fixed annual lease fee over the term of the arrangement and variable revenue related to the treatments performed by the lessee.

Nature of Products and Services

Systems

Systems revenue is generated from the sale of systems and from the sale of upgrades to existing systems. A system consists of a console that incorporates a universal graphic user interface, a laser or other energy-based module, control system software and high voltage electronics, as well as one or more hand pieces. In certain applications, the laser or other energy-based module is contained in the hand piece, rather than within the console.

The Company offers customers the ability to select the system that best fits their practice at the time of purchase and then to cost-effectively add applications to their system as their practice grows. This provides customers the flexibility to upgrade their systems whenever they choose and provides the Company with a source of additional Systems revenue.

The system or upgrade and the right to use the embedded software represent a single performance obligation as the software license is integral to the functionality of the system or upgrade.

For systems sold directly to end-customers that are credit approved, revenue is recognized when the Company transfers control to the end-customer, which occurs when the product is shipped to the customer or when the customer receives the product, depending on the nature of the arrangement. When collectability is not established in advance of receipt of payment from the customer, revenue is recognized upon the later of the receipt of payment or the satisfaction of the performance obligation. For systems sold through credit approved distributors, revenue is recognized at the time of shipment to the distributor.

The Company's invoice terms typically require payment for its system consoles and other accessories within 30 days of shipment. Certain international distributor arrangements allow for longer payment terms.

AviClear

The Company leases the AviClear device to customers and receives a fixed annual license fee over the term of the arrangement and variable lease income related to the treatments performed by the lessee. The Company classifies its lease income as product revenue and classifies the AviClear contracts as operating leases. The fixed annual license fee is recognized evenly over the period of the lease contract on a straight-line basis. The treatment fee is recognized in the period the treatment protocol is initiated.

Consumables and other accessories

The Company classifies its customers' purchases of replacement cycles for *truSculpt* and *truFlex,* as well as replacement hand pieces, x*eo* and *truSculpt 3D* hand pieces, and single use disposable tips applicable to *Secret PRO,* and *Secret RF* as Consumable revenue. The *Secret PRO* and *Secret RF* products' single use disposable tips must be replaced after every treatment. The Company’s systems offer multiple hand pieces and applications, which allow customers to upgrade their systems.

Skincare products

The Company generates revenue from the distribution of skincare products, which are manufactured by ZO Skin Health, Inc. (“ZO”), and sold in the Japanese market to medical offices and licensed physicians. The Company warrants that the skincare products are free of significant defects in workmanship and materials for 90 days from shipment. The Company acts as the principal in this arrangement, as the Company determines the price to charge customers for the skincare products and controls the products before they are transferred to the customer. The Company recognizes revenue for skincare products at a point in time upon shipment.

On February 28, 2024, the Company entered into a Business Transfer and Termination Agreement with ZO, which, among other things, terminates all agreements related to the distribution by the Company of ZO’s products in Japan effective immediately. Refer to *Note 16. Subsequent Events*.

Extended service contract

The Company offers post-warranty services to its customers through extended service contracts that cover parts and labor for a term of one to three years. Service contract revenue is recognized over time, using a time-based measure of progress, as customers benefit from the service throughout the service period. The Company also offers services on a time and materials basis for systems and detachable hand piece replacements. Revenue related to services performed on a time and materials basis is recognized when performed.

Training

Sales of systems to customers include training on the use of the system to be provided within 90 days of purchase. The Company considers training a separate performance obligation as customers can immediately benefit from the training, and training is also sold separately from systems. The Company recognizes revenue for training when the training is provided.

Significant Judgments

The Company determines standalone selling price ("SSP") for each performance obligation as follows:

- Systems: The SSPs for systems are based on directly observable sales in similar circumstances to similar customers.
- Extended warranty/Service contracts: SSP is based on observable price when sold on a standalone basis to similar customers.

Loyalty Program

The Company operates a customer loyalty program for qualified customers located in the U.S. and Canada. Under the loyalty program, customers accumulate points based on their purchasing levels which can be redeemed for such rewards as the right to attend the Company’s advanced training event for a product, or a ticket for the Company’s annual forum. A customer’s account must be in good standing to receive the benefits of the rewards program. Rewards are earned on a quarterly basis and must be used in the following quarter. All unused rewards are forfeited. The fair value of the reward earned by loyalty program members is included in accrued liabilities and recorded as a reduction of net revenue at the time the reward is earned. As of September 30, 2023 and December 31, 2022, the liability for the loyalty program included in accrued liabilities was $0.3 million and $0.3 million, respectively.

Deferred Sales Commissions

Incremental costs of obtaining a contract related to the sale of a system, which consist primarily of commissions and related payroll taxes, are capitalized, and amortized on a straight-line basis over the expected period of benefit, except for costs that are recognized when product is sold. The Company uses the portfolio method to recognize the amortization expense related to these capitalized costs related to initial contracts and such expense is recognized over a period associated with the revenue of the related portfolio, which is generally two to three years.

Total capitalized commissions as of September 30, 2023 and December 31, 2022 were $2.8 million and $3.8 million, respectively, and are included in Other long-term assets in the Company’s condensed consolidated balance sheet. Amortization expense for these assets was $0.6 million and $1.9 million during the three and nine months ended September 30, 2023, respectively, and $0.6 million and $1.8 million during the three and nine months ended September 30, 2022, respectively. The amortization related to these capitalized costs is included in sales and marketing expense in the Company’s condensed consolidated statement of operations.

Note 9. Stockholders' Equity and Stock-based Compensation Expense

The Company's equity incentive plans are broad-based, long-term programs intended to attract and retain talented employees and align stockholder and employee interests. The 2019 Equity Incentive Plan (the "2019 Plan") and the 2023 Inducement Equity Plan (the "2023 Plan") provide for the grant of incentive stock options, non-statutory stock options, restricted stock units ("RSUs"), performance stock units ("PSUs"), and other stock or cash awards.

The 2023 Plan was approved by the Board of Directors of Cutera, Inc. on July 17, 2023, and reserves 2,500,000 shares of the Company's common stock for issuance. The 2023 Plan provides for the grant of equity-based awards, restricted stock units, restricted stock, stock appreciation rights, and performance awards to individuals not previously employees of the Company as an inducement material to the individuals' entry into employment with the Company.

New Hire Grants to the Chief Executive Officer

On August 18, 2023, the Board of Directors approved a grant of $4 million of restricted stock units and a grant of $4 million of market-based stock options to Taylor Harris, who joined as the Company's Chief Executive Officer on August 7, 2023. The restricted stock grant of 249,336 shares vests over four years, subject to the continued employment of Mr. Harris. The vesting of the market-based stock option is dependent upon price targets of the Company's common stock. One quarter of the 735,295 grant quantity will become eligible for time-based vesting at each of the following prices of the Company's common stock: $20.00, $25.00, $30.00, and $35.00, if these prices are reached within four years of the grant date. The Monte Carlo Simulation valuation model was used to determine the fair value of the market-based stock options granted.

Activity under the Company's equity incentive plans is summarized as follows:

	Shares Available for Grant
Balance, December 31, 2022	1,070,925
Additional shares reserved	3,800,000
Options and stock awards granted	(2,048,037)
Stock awards canceled / forfeited / expired	378,128
Options canceled / forfeited / expired	189,705
Balance, September 30, 2023	3,390,721

The equity plans deduct the shares available for issuance by the gross number of shares for which an award is exercised or vests, not the net number of shares actually issued upon exercise, in the event the exercise price is paid in shares of the Company's common stock or shares are withheld to satisfy tax withholding obligations. Any RSU or PSU shares granted on or after July 13, 2023 are counted against the shares available for grant at a ratio of 1.65 shares for every one share granted.

	Options Outstanding		
	Number of Stock Options Outstanding	Weighted-Average Exercise Price	Weighted Average Remaining Term (in Years)
Balance, December 31, 2022	513,935	$ 34.41	6.63
Options granted	1,099,075	$ 13.27	
Options exercised	(42,234)	$ 14.50	
Options canceled / forfeited / expired	(189,705)	$ 30.26	
Balance, September 30, 2023	1,381,071	$ 18.77	8.44

	Stock Awards Outstanding	
	Number of Awards Outstanding	Weighted Average Grant Date Fair Value per Share
Balance, December 31, 2022	906,211	$ 40.39
Stock awards granted	752,492	$ 15.72
Awards released	(284,231)	$ 35.54
Stock awards canceled / forfeited / expired	(378,128)	$ 39.38
Balance, September 30, 2023	996,344	$ 23.50

Stock-based Compensation Expense

Stock-based compensation expense by financial statement line item recognized during the three and nine months ended September 30, 2023 and 2022 was as follows (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
Cost of revenue	$ (19)	$ 471	$ 706	$ 1,430
Sales and marketing	593	1,641	3,024	3,855
Research and development	(178)	466	930	2,513
General and administrative	1,220	1,667	1,892	5,223
Total stock-based compensation expense	$ 1,616	$ 4,245	$ 6,552	$ 13,021

In the three months ended September 30, 2023, stock-based compensation expense was impacted by the Company reducing its estimate of the probability of certain performance stock unit grants fully vesting. The nine-month comparison also reflects the reversal of previously reported stock-based compensation expense related to a significant number of executives and directors that left the Company in the three months ended June 30, 2023.

Note 10. Net Loss Per Share

As of September 30, 2023, the Company's Convertible Notes were potentially convertible into 8,696,792 shares of common stock.

The denominator for diluted net loss per share does not include any effect from the capped call transactions the Company entered into concurrently with the issuances of convertible notes, as this effect would be anti-dilutive. In the event of conversion of a convertible note, shares delivered to the Company under the capped call will offset the dilutive effect of the shares that the Company would issue under the convertible notes. In the three and nine months ended September 30, 2023 and September 30, 2022, the if-converted method was not applied as the effect would have been anti-dilutive.

For the three and nine months ended September 30, 2023 and September 30, 2022, a basic loss per common share and diluted loss per common share are the same in each period as the inclusion of any potentially issuable shares would be anti-dilutive.

The following table sets forth the computation of basic and diluted net loss and the weighted average number of shares used in computing basic and diluted net loss per share (in thousands, except per share data):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
Numerator:				
Net loss used in calculating net loss per share, basic	$ (44,274)	$ (12,134)	$ (105,600)	$ (74,552)
Denominator:				
Weighted average shares of common stock outstanding used in computing net loss per share, basic	19,932	19,593	19,858	18,897
Dilutive effect of incremental shares and share equivalents:				
Convertible notes	—	—	—	—
Options	—	—	—	—
RSUs	—	—	—	—
PSUs	—	—	—	—
ESPP	—	—	—	—
Weighted average shares of common stock outstanding used in computing net loss per share, diluted	19,932	19,593	19,858	18,897
Net loss per share:				
Net loss per share, basic	$ (2.22)	$ (0.62)	$ (5.32)	$ (3.95)
Net loss per share, diluted	$ (2.22)	$ (0.62)	$ (5.32)	$ (3.95)

The following numbers of shares outstanding, prior to the application of the treasury stock method and the if-converted method, were excluded from the computation of diluted net loss per common share for the periods presented because including them would have had an anti-dilutive effect (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
Capped call	10,780	8,724	10,780	8,724
Convertible notes	8,697	6,640	8,697	6,640
Options	1,381	521	1,381	521
RSU's	756	488	756	488
PSU's	240	470	240	470
ESPP	72	22	72	22
Total	21,926	16,865	21,926	16,865

Note 11. Income Taxes

For the three and nine months ended September 30, 2023, the Company's income tax expense was $0.2 million and $0.8 million, respectively, compared to $0.8 million and $0.9 million, respectively, for the three and nine months ended September 30, 2022.

The Company's income tax expense for the three and nine months ended September 30, 2023 and 2022 is due to income taxes in foreign jurisdictions. The Company continues to maintain a full valuation allowance on its U.S. deferred tax assets.

Note 12. Leases

The Company is a party to certain operating and finance leases for vehicles, office space and storage facilities. The Company's material operating leases consist of office space, as well as storage facilities and finance leases consist of automobile leases. The Company's leases generally have remaining terms of one to 10 years, some of which include options to renew the leases for up to five years. The Company leases space for operations in the United States, Japan, Belgium, France, and Spain.

The Company determines if a contract contains a lease at inception. Operating lease assets and liabilities are recognized at the lease commencement date. Operating lease liabilities represent the present value of lease payments not yet paid. Operating lease assets represent the right to use an underlying asset and are based upon the operating lease liabilities adjusted for prepayments or accrued lease payments, initial direct costs, lease incentives, and impairment of operating lease assets. To determine the present value of lease payments not yet paid, the Company estimates the incremental secured borrowing rates corresponding to the maturities of the leases. The Company based the rate estimates on prevailing financial market conditions, credit analysis, and management judgment.

Tenant incentives used to fund leasehold improvements are recognized when earned and reduce the Company's right-of-use asset related to the lease. These are amortized through the right-of-use asset as reductions of expense over the lease term.

Supplemental balance sheet information related to leases was as follows (in thousands):

Leases	Classification	September 30, 2023	December 31, 2022
Assets			
Right-of-use assets	Operating lease right-of-use assets	$ 10,690	$ 12,831
Finance lease	Property and equipment, net	1,825	1,606
Total leased assets		$ 12,515	$ 14,437

Liabilities	Classification	September 30, 2023	December 31, 2022
Operating lease liabilities			
Operating lease liabilities, current	Operating lease liabilities	$ 2,511	$ 2,810
Operating lease liabilities, non-current	Operating lease liabilities, net of current portion	9,466	11,352
Total Operating lease liabilities		$ 11,977	$ 14,162
Finance lease liabilities			
Finance lease liabilities, current	Accrued liabilities	$ 818	$ 485
Finance lease liabilities, non-current	Other long-term liabilities	1,052	825
Total Finance lease liabilities		$ 1,870	$ 1,310

Lease costs during the three and nine months ended September 30, 2023 and 2022 (in thousands) was as follows:

		Three Months Ended September 30,		Nine Months Ended September 30,	
Lease costs	**Classification**	**2023**	**2022**	**2023**	**2022**
Finance lease cost	Amortization expense	$ 209	$ 148	$ 507	$ 487
Finance lease cost	Interest for finance lease	$ 23	$ 17	$ 61	$ 54
Operating lease cost	Operating lease expense	$ 921	$ 883	$ 2,701	$ 2,678

Cash paid for amounts included in the measurement of lease liabilities during the nine months ended September 30, 2023 and 2022 was as follows (in thousands):

		Nine Months Ended September 30,	
Cash paid for amounts included in the measurement of lease liabilities	**Classification**	**2023**	**2022**
Operating cash flow	Finance lease	$ 62	$ 56
Financing cash flow	Finance lease	$ 386	$ 391
Operating cash flow	Operating lease	$ 2,449	$ 1,682

Operating leases

Maturities of facility leases were as follows as of September 30, 2023 (in thousands):

As of September 30, 2023	**Amount**
Remainder of 2023	$ 814
2024	2,924
2025	2,932
2026	3,027
2027	3,130
2028 and thereafter	462
Total lease payments	13,289
Less: imputed interest	1,312
Present value of lease liabilities	$ 11,977

Finance Leases

As of September 30, 2023, the Company was committed to minimum lease payments for vehicles leased under long-term non-cancelable finance (vehicle) leases as follows (in thousands):

As of September 30, 2023	**Amount**
Remainder of 2023	$ 251
2024	878
2025	600
2026	341
Total lease payments	2,070
Less: imputed interest	200
Present value of lease liabilities	$ 1,870

Weighted-average remaining lease term and discount rate, as of September 30, 2023, were as follows:

Lease Term and Discount Rate	September 30, 2023
Weighted-average remaining lease term (years)	
Operating leases	4.4
Finance leases	2.5
Weighted-average discount rate	
Operating leases	4.8 %
Finance leases	8.9 %

Lessor - AviClear

Lessor revenue

The Company leases the AviClear device to customers and receives a fixed annual license fee over the term of the arrangement and variable revenue related to the number of treatments performed by the lessee. The contractual term of the lease agreement is three years with a one-year auto-renewal feature. Certain lease agreements' terms in excess of one year can be terminated without financial penalty, and these agreements are accounted for as having a lease term of one year. The AviClear lease agreements are accounted for as operating leases. The fixed annual license fee is recognized evenly throughout the period of the lease agreement on a straight-line basis. The treatment revenue is recognized in the period the lessee has the ability to perform the patient treatment.

The following table summarizes the amount of operating lease income included in product revenue in the accompanying condensed consolidated statements of operations (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
AviClear operating lease license fee revenue	$ 1,324	$ 246	$ 3,916	$ 285
AviClear operating lease revenue	2,565	909	8,504	1,006
Total AviClear revenue	$ 3,889	$ 1,155	$ 12,420	$ 1,291

The AviClear device being leased has a useful life of seven years. The Company expects that a device will be leased for two consecutive lease terms at the end of which its residual value will be immaterial.

The following is the minimum future lease payments as of September 30, 2023, under non-cancelable operating leases, assuming the minimum contractual lease term (in thousands):

As of September 30, 2023	Amount
Remainder of 2023	$ 1,082
2024	5,924
2025	3,476
Total AviClear revenue	$ 10,482

Practical Expedients

The Company elected to apply a practical expedient to operating leases and elected not to separate lease and nonlease components as long as the lease and at least one nonlease component have the same timing and pattern of transfer. As such, updates or upgrades on a when-and-if available basis to the AviClear device are combined with the operating lease revenue. The combined component is being accounted for under ASC 842. Additionally, the Company made an accounting policy election to present AviClear revenue net of sales and other similar taxes.

Capitalized sales commissions

Sales commissions related to obtaining AviClear lease agreements are accounted for as initial direct costs and are capitalized and amortized on a straight-line basis over the lease term. Amortization expenses for these assets were $1.2 million and $3.5 million for the three and nine-month periods ended September 30, 2023, respectively, and $0.1 million and $0.1 million for the comparative periods ended September 30, 2022, and were included in Sales and marketing expense in the Company’s condensed consolidated statement of operations. Total capitalized commissions as of September 30, 2023, and December 31, 2022, were $3.4 million and $3.3 million, respectively, and are included in Other long-term assets in the Company’s condensed consolidated balance sheet.

Lease installment costs

The Company capitalizes fulfillment costs incurred before AviClear lease commencement and these costs include freight, installation, and training costs. Amortization expenses for these assets were $0.7 million and $1.7 million for the three and nine-month periods ended September 30, 2023, respectively, and immaterial amounts for the comparative periods ended September 30, 2022, and were included in Cost of revenue in the Company’s condensed consolidated statement of operations. Total lease installment costs as of September 30, 2023, and December 31, 2022, were $2.6 million and $1.3 million, respectively, and are included in Other long-term assets in the Company’s condensed consolidated balance sheet.

Note 13. Contingencies

The Company is named from time to time as a party to other legal proceedings, product liability, intellectual property disputes, commercial disputes, employee disputes, and contractual lawsuits. A liability and related charge are recorded to earnings in the Company’s consolidated financial statements for legal contingencies when the loss is considered probable and the amount can be reasonably estimated. The assessment is re-evaluated each accounting period and is based on all available information, including discussion with outside legal counsel. If a reasonable estimate of a known or probable loss cannot be made, but a range of probable losses can be estimated, the low-end of the range of losses is recognized if no amount within the range is a better estimate than any other. If a material loss is reasonably possible, but not probable and can be reasonably estimated, the estimated loss or range of loss is disclosed in the notes to the consolidated financial statements. The Company expenses legal fees as incurred. Certain of the cases below are still in the preliminary stages, and the Company is not able to quantify the extent of its potential liability, if any, other than as described. The outcome of litigation is inherently unpredictable and subject to significant uncertainties. If any of these matters are resolved adversely to the Company, this could have a material adverse effect on its business, financial condition, results of operations, and cash flows. In addition, defending these legal proceedings is likely to be costly, which may have a material adverse effect on the Company's financial condition, results of operations and cash flows, and may divert management's attention from the day-to-day operations of its business.

On January 31, 2020, the Company filed a lawsuit against Lutronic Aesthetics in the United States District Court for the Eastern District of California. Lutronic employs numerous former Cutera employees. The complaint against Lutronic generally alleges claims for (1) misappropriation of trade secrets in violation of state and federal law; (2) violation of the Racketeer Influenced and Corrupt Organizations Act ("RICO"); (3) interference with contractual relations; (4) interference with prospective economic advantage; (5) unfair competition; and (6) aiding and abetting. On March 13, 2020, the court entered a temporary restraining order ("TRO") against Lutronic generally prohibiting it from using or disseminating the Company's confidential, proprietary, or trade secret information. The order also prohibited Lutronic, for two years, from using such information for the purpose of soliciting, or conducting business with, certain specified customers. On April 9, 2020, the parties stipulated to the entry of a preliminary injunction providing for the same relief afforded by the TRO. On August 4, 2022, Cutera filed a second amended complaint. In addition to the above referenced claims, Cutera alleged claims for violation of the Lanham Act, unlawful business practices, false advertising and trademark infringement. Discovery is ongoing. No trial date has been scheduled.

In March 2023, Serendia, LLC (“Serendia”), filed patent infringement complaints against the Company with the International Trade Commission (“ITC”) and in U.S. District Court for the District of Delaware alleging infringement of six Serendia patents by the Secret RF and Secret Pro systems, which the Company distributes in the U.S. on behalf of ILOODA Co. Ltd., a Korean company. The Delaware matter has been stayed pending the ITC matter, which the Company expects to be ruled upon in the second half of 2024. If the Company is held liable for patent infringement and is unable to secure a license to the patents or re-design the allegedly infringing products, the Company may be subject to monetary damages and/or an injunction prohibiting the applicable products from being imported into the United States. The manufacturer of these products, ILOODA Co. Ltd., is obligated to defend the Company against these claims and, as a result, the Company has not incurred significant external legal costs. The Company is defending against these claims vigorously. Given the inherent uncertainties of litigation, the Company cannot guarantee that it will not be held liable for infringing one or more claims of Serendia patents. If the Company is held liable for infringement, it may be subject to monetary damages and/or an injunction prohibiting the importation or sale of the applicable products in the United States.

On April 11, 2023, J. Daniel Plants, the Company's former Executive Chairperson, and David Mowry, the Company's former Chief Executive Officer, filed a complaint in the Delaware Court of Chancery against directors Gregory Barrett, Sheila Hopkins, Timothy O'Shea, Juliane Park and Janet Widmann, as defendants, and the Company, as nominal defendant (the "Delaware Litigation") seeking a declaration that the individual defendants breached their fiduciary duties and enjoining them from enforcing the nomination deadline under the Company's Amended and Restated Bylaws in connection with the 2023 annual meeting of stockholders, or in the alternative, a declaration that the Company must hold a special meeting of the stockholders on June 2, 2023. Mr. Plants and Mr. Mowry filed a motion for expedited proceedings with their complaint. Mr. Plants and Mr. Mowry subsequently agreed that the determination made by the Special Committee of the Board to hold a special meeting of the stockholders on June 9, 2023 mooted their request in the Delaware Litigation for a declaration that the Company hold a special meeting of the stockholders. On April 18, 2023, the Court of Chancery denied Mr. Plants and Mr. Mowry's motion for expedited proceedings.

On May 16, 2023, Mr. Mowry filed a letter with the Court of Chancery disclosing that he had resolved his dispute with the defendants and agreed to dismiss his claims with prejudice. On May 17, 2023, the Court of Chancery granted an order for voluntary dismissal of Mr. Mowry as a plaintiff in the Delaware Litigation. Mr. Plants subsequently publicly voiced opposition to certain aspects of the Company's corporate governance and strategy but did not submit a notice of nomination of director candidates for the Company's 2023 annual meeting of stockholders and did not purport to nominate any director candidates at the Company's annual meeting of stockholders held on July 13, 2023. Due to Plaintiff's failure to amend his Complaint within the time required by the Court's order dated October 6, 2023, the Delaware Litigation was dismissed with prejudice.

On October 5, 2023, Mr. Plants filed a Sarbanes-Oxley ("SOX") discrimination claim (the "SOX Whistleblower Complaint") with the U.S. Department of Labor Occupational Safety and Health Administration ("OSHA"). Mr. Plants alleges that he was terminated on April 11, 2023, in retaliation for reporting to the Board of Directors (the "Board") his concerns that budgeting and guiding to higher forecasts for 2023 would be misleading to shareholders. The SOX Whistleblower Complaint referenced the April 3, 2023 letter from Mr. Plants to the Company's Board that articulated Mr. Plants' concerns. The Company received notice of the SOX Whistleblower Complaint on November 8, 2023. The Company is defending the complaint and cannot predict the outcome.

On December 7, 2023, Mr. Plants made an arbitration demand in JAMS against the Company, Mr. Barrett, Ms. Hopkins, Mr. O'Shea, Ms. Park and Ms. Widmann for claims related to the termination of his employment (the "Arbitration Demand"). Mr. Plants alleges several claims: breach of his change of control and severance agreement; wrongful termination; retaliation in violation of California's whistleblower laws; retaliation in violation of SOX; defamation/libel; tortious interference with prospective economic advantage; and breach of oral contract. He seeks compensatory, special, and punitive damages, as well as reinstatement, civil penalties, and attorneys' fees and costs. The arbitration will proceed, in accordance with JAMS' Employment Arbitration Rules & Procedures. Provision had been made for the expected loss in connection with the OSHA and SOX matters and is immaterial. An estimate of the reasonably possible loss cannot be made.

As of September 30, 2023, and December 31, 2022, the Company had accrued $1.5 million and $0.5 million, respectively, related to various pending commercial and product liability lawsuits. The Company does not believe that a material loss in excess of accrued amounts is reasonably likely.

Note 14. Debt

Convertible notes, net of unamortized debt issuance costs

The following table presents the outstanding principal amount and carrying value of the Company's Convertible Notes (in thousands):

	September 30, 2023		December 31, 2022	
Notes due in 2026				
Outstanding principal amount	$	69,125	$	69,125
Unamortized debt issuance costs		(1,203)		(1,553)
Carrying Value	$	67,922	$	67,572
Notes due in 2028				
Outstanding principal amount	$	240,000	$	240,000
Unamortized debt issuance costs		(6,016)		(6,908)
Carrying Value	$	233,984	$	233,092
Notes due in 2029				
Outstanding principal amount	$	120,000	$	120,000
Unamortized debt issuance costs		(3,777)		(4,205)
Carrying Value	$	116,223	$	115,795
Convertible notes, net	$	418,129	$	416,459

Issuance of convertible notes due in 2026

In March 2021, the Company issued $138.3 million aggregate principal amount of 2026 Notes in a private placement offering. In May 2022, the Company entered into privately-negotiated exchange agreements with certain holders of the Company's outstanding 2026 Notes. Following the exchange, approximately $69.1 million in aggregate principal amount of the 2026 Notes remained outstanding.

The 2026 Notes bear interest at a rate of 2.25% per year payable semiannually in arrears on March 15 and September 15 of each year. Upon conversion, the 2026 Notes will be convertible into either cash, shares of the Company's common stock or a combination thereof, at the Company's election. The Convertible notes are presented as Convertible notes, net of unamortized debt issuance costs, on the condensed consolidated balance sheet. The aggregate proceeds from the offering were approximately $133.6 million, net of issuance costs, including initial purchaser fees.

Each $1,000 principal amount of the 2026 Notes is initially convertible into 30.1427 shares of the Company's common stock, which is equivalent to a conversion price of approximately $33.18 per share. The conversion rate for the 2026 Notes is subject to adjustment for certain events as set forth in the indenture governing the 2026 Notes. The 2026 Notes will mature on March 15, 2026, unless earlier converted, redeemed, or repurchased in accordance with the terms of the 2026 Notes.

Issuance of convertible notes due in 2028

In May 2022, the Company issued $240.0 million aggregate principal amount of 2028 Notes. A total of $230.0 million of aggregate principal amount of 2028 Notes was issued in a private placement offering and concurrently with this private placement, the Company entered into a purchase agreement with Voce Capital Management LLC ("Voce"), an entity affiliated with J. Daniel Plants, the Company's former Executive Chairperson, pursuant to which the Company issued to Voce $10.0 million aggregate principal amount of 2028 Notes on the same terms and conditions. The 2028 Notes are presented as Convertible notes, net of unamortized debt issuance costs, on the condensed consolidated balance sheet. The aggregate proceeds from the offering of 2028 Notes were approximately $232.4 million, net of issuance costs, including initial purchaser fees.

The 2028 Notes bear interest at a rate of 2.25% per year payable semiannually in arrears on June 1 and December 1 of each year, beginning on December 1, 2022. Upon conversion, the 2028 Notes will be convertible into either cash, shares of the Company's common stock or a combination thereof, at the Company's election. Each $1,000 principal amount of the 2028 Notes is initially convertible into 18.9860 shares of the Company's common stock, which is equivalent to an initial conversion price of approximately $52.67 per share. The conversion rate for the 2028 Notes is subject to adjustment for certain events as set forth in the indenture governing the 2028 Notes. The 2028 Notes will mature on June 1, 2028, unless earlier converted, redeemed, or repurchased in accordance with the terms of the 2028 Notes.

Issuance of convertible notes due in 2029

In December 2022, the Company issued $120.0 million aggregate principal amount of 2029 Notes in a private placement offering. The 2029 Notes bear interest at a rate of 4.00% per year payable semiannually in arrears on June 1 and December 1 of each year. Upon conversion, the 2029 Notes will be convertible into either cash, shares of the Company's common stock or a combination thereof, at the Company's election. The convertible notes are presented as Convertible notes, net of unamortized debt issuance costs, on the condensed consolidated balance sheet. The aggregate proceeds from the offering were approximately $115.8 million, net of issuance costs, including initial purchaser fees.

Each $1,000 principal amount of the 2029 Notes is initially convertible into 17.1378 shares of the Company's common stock, which is equivalent to a conversion price of approximately $58.35 per share. The conversion rate for the 2029 Notes is subject to adjustment for certain events as set forth in the indenture governing the 2029 Notes. The 2029 Notes will mature on June 1, 2029, unless earlier converted, redeemed, or repurchased in accordance with the terms of the 2029 Notes.

2026 Notes exchange

In May 2022, the Company entered into privately-negotiated exchange agreements with certain holders of the Company's outstanding 2026 Notes with respect to the exchange of $45.8 million in cash (excluding $0.3 million in cash for the payment of accrued interest) and 1,354,348 shares of common stock for $69.1 million in aggregate principal amount of the Company's outstanding 2026 Notes (the "2026 Notes Exchange"). Immediately following the closing of the 2026 Notes Exchange, approximately $69.1 million in aggregate principal amount of the 2026 Notes remained outstanding.

The 2026 Notes Exchange was accounted for as an extinguishment of debt. The Company recorded the difference between the proceeds paid and the carrying amount of the debt as an extinguishment loss, with a corresponding entry to common stock and Additional-paid-in capital for the issuance of the shares at the then-trading price of $41.31 per share. The table below presents the components of the Loss on debt extinguishment recorded in the Company's condensed consolidated statements of operations in the three months ended September 30, 2022 (amounts in thousands, except share and per share amounts):

Shares issued for repurchase	1,354,348		
Closing price of Cutera common stock on May 24, 2022	$ 41.31		
Value of shares issued		$ 55,948	
Cash used for repurchase		45,776	
Total shares and cash			$ 101,724
2026 Note principal exchanged			(69,125)
			32,599
2026 Notes: Unamortized debt issuance costs on May 24, 2022		$ 3,648	
Portion of 2026 Note principal exchanged		50 %	1,824
Loss on debt extinguishment			$ 34,423

Conversion and other features

2026 Notes:

Holders may convert their 2026 Notes at their option prior to the close of business on the business day immediately preceding December 15, 2025, in multiples of $1,000 principal amount, only under the following circumstances:

- During any fiscal quarter (and only during such fiscal quarter), if the last reported sale price of the common stock for at least 20 trading days (whether or not consecutive) during a period of 30 consecutive trading days ending on and including, the last trading day of the immediately preceding fiscal quarter, is greater than or equal to 130% of the conversion price for the 2026 Notes on each applicable trading day;

- During the five-business day period after any five consecutive trading day period (the "measurement period") in which the "trading price" per $1,000 principal amount of 2026 Notes for each trading day of the measurement period was less than 98%

of the product of the last reported sale price of the Company's common stock and the conversion rate on each such trading day;

- The Company calls such 2026 Notes for redemption, at any time prior to the close of business on the second scheduled trading day immediately preceding the redemption date; or

- Upon the occurrence of specified corporate events.

On or after December 15, 2025, and until the close of business on the second scheduled trading day immediately preceding the maturity date, holders may convert all or any portion of their 2026 Notes, in multiples of $1,000 principal amount, at the option of the holder regardless of the foregoing circumstances.

The circumstances described in the bullets of the paragraph above were not met during the third quarter of 2023. As of September 30, 2023, the 2026 Notes are not convertible. The 2026 Notes may become convertible in future periods. Upon any conversion requests of the 2026 Notes, the Company would be required to pay or deliver, as the case may be, cash, shares of its common stock, or a combination of cash and shares of its common stock, at the Company’s election with respect to such conversion requests. To the extent there are any conversion requests during the twelve months ending September 30, 2024, the Company intends to settle such conversion requests in shares of common stock. Therefore, as of September 30, 2023, the 2026 Notes have been included as Long-term debt on the condensed consolidated balance sheet.

The Company may not redeem the 2026 Notes prior to March 20, 2024. On or after March 20, 2024, the Company may redeem for cash all or any portion of the 2026 Notes, at the Company’s option, if the last reported sale price of the Company’s common stock has been at least 130% of the conversion price then in effect for at least 20 trading days (whether or not consecutive) during any 30 consecutive trading day period (including the last trading day of such period) ending on, and including, the trading day immediately preceding the date on which the Company provides notice of redemption at a redemption price equal to 100% of the principal amount of the 2026 Notes to be redeemed, plus accrued and unpaid interest to, but excluding, the redemption date. If the Company elects to redeem fewer than all of the outstanding 2026 Notes, at least $50.0 million aggregate principal amount of 2026 Notes must be outstanding and not subject to redemption as of the relevant redemption notice date.

If a specified corporate event occurs, 2026 Note holders have the option to require the Company to repurchase any portion or all of their 2026 Notes in $1,000 principal increments for cash. The price for such repurchase is calculated as 100% of the principal amounts of 2026 Notes, plus accrued and unpaid interest to the day immediately preceding the Fundamental Change repurchase date. Additionally, holders of the 2026 Notes who convert in connection with a fundamental change are, under certain circumstances, entitled to an increase in conversion rate.

The 2026 Notes are general senior unsecured obligations that rank senior to any of the Company’s indebtedness that is explicitly subordinated to the 2026 Notes. The 2026 Notes have equal rank in right of payment with all existing and future unsecured indebtedness that is not subordinated to the 2026 Notes (including the 2028 Notes and 2029 Notes). The 2026 Notes will be junior to any of the Company’s secured indebtedness to the extent of the value of the assets securing such indebtedness.

The estimated fair value of the 2026 Notes was approximately $49.1 million as of September 30, 2023, which the Company determined through consideration of market prices. The fair value measurement is classified as Level 2, as defined in Note 3.

2028 Notes:

Holders may convert their 2028 Notes at their option, in multiples of $1,000 principal amount, only under the following circumstances:

- During any fiscal quarter commencing after the fiscal quarter ending on September 30, 2022 (and only during such fiscal quarter), if the last reported sale price of the common stock for at least 20 trading days (whether or not consecutive) during a period of 30 consecutive trading days ending on and including, the last trading day of the immediately preceding fiscal quarter, is greater than or equal to 130% of the conversion price for the 2028 Notes on each applicable trading day;

- During the five-business day period after any five consecutive trading day period (the “measurement period”) in which the “trading price” per $1,000 principal amount of 2028 Notes for each trading day of the measurement period was less than 98% of the product of the last reported sale price of the Company's common stock and the conversion rate on each such trading day;

- The Company calls such 2028 Notes for redemption, at any time prior to the close of business on the second scheduled trading day immediately preceding the redemption date; or

- Upon the occurrence of specified corporate events.

On or after March 1, 2028, and until the close of business on the second scheduled trading day immediately preceding the maturity date, holders may convert all or any portion of their 2028 Notes, in multiples of $1,000 principal amount, at the option of the holder regardless of the foregoing circumstances.

The circumstances described in the bullets in the paragraph above were not met during the third quarter of 2023. As of September 30, 2023, the 2028 Notes are not convertible. The 2028 Notes may become convertible in future periods. Upon any conversion requests of the 2028 Notes, the Company would be required to pay or deliver, as the case may be, cash, shares of its common stock, or a combination of cash and shares of its common stock, at the Company's election with respect to such conversion requests. To the extent there are any conversion requests during the twelve months ending September 30, 2024, the Company intends to settle such conversion requests in shares of common stock. Therefore, as of September 30, 2023, the 2028 Notes have been included as long-term debt on the condensed consolidated balance sheet.

The Company may not redeem the 2028 Notes prior to June 5, 2025. On or after June 5, 2025, the Company may redeem for cash all or any portion of the 2028 Notes, at the Company's option, if the last reported sale price of the Company's common stock has been at least 130% of the conversion price then in effect for at least 20 trading days (whether or not consecutive) during any 30 consecutive trading day period (including the last trading day of such period) ending on, and including, the trading day immediately preceding the date on which the Company provides notice of redemption at a redemption price equal to 100% of the principal amount of the 2028 Notes to be redeemed, plus accrued and unpaid interest to, but excluding, the redemption date. If the Company elects to redeem fewer than all of the outstanding 2028 Notes, at least $100.0 million aggregate principal amount of 2028 Notes must be outstanding and not subject to redemption as of the relevant redemption notice date.

If a specified corporate event occurs, note holders have the option to require the Company to repurchase any portion or all of their 2028 Notes in $1,000 principal increments for cash. The price for such repurchase is calculated as 100% of the principal amounts of 2028 Notes, plus accrued and unpaid interest to the day immediately preceding the Fundamental Change repurchase date. Additionally, holders of the 2028 Notes who convert in connection with a fundamental change are, under certain circumstances, entitled to an increase in conversion rate.

The 2028 Notes are general senior unsecured obligations that rank senior to any of the Company's indebtedness that is explicitly subordinated to the 2028 Notes. The 2028 Notes have equal rank in right of payment with all existing and future unsecured indebtedness that is not subordinated to the 2028 Notes (including the 2026 Notes and 2029 Notes). The 2028 Notes will be junior to any of the Company's secured indebtedness to the extent of the value of the assets securing such indebtedness.

The estimated fair value of the 2028 Notes was approximately $143.9 million as of September 30, 2023, which the Company determined through consideration of market prices. The fair value measurement is classified as Level 2, as defined in Note 3.

2029 Notes:

Holders may convert their 2029 Notes at their option prior to the close of business on the business day immediately preceding March 1, 2029 in multiples of $1,000 principal amount, only under the following circumstances:

- During any fiscal quarter commencing after the fiscal quarter ending March 31, 2023 (and only during such fiscal quarter), if the last reported sale price of the common stock for at least 20 trading days (whether or not consecutive) during a period of 30 consecutive trading days ending on and including, the last trading day of the immediately preceding fiscal quarter, is greater than or equal to 130% of the conversion price for the 2029 Notes on each applicable trading day;

- During the five-business day period after any five consecutive trading day period (the "measurement period") in which the "trading price" per $1,000 principal amount of 2029 Notes for each trading day of the measurement period was less than 98% of the product of the last reported sale price of the Company's common stock and the conversion rate on each such trading day;

- The Company calls such 2029 Notes for redemption, at any time prior to the close of business on the second scheduled trading day immediately preceding the redemption date; or

- Upon the occurrence of specified corporate events.

On or after March 1, 2029, and until the close of business on the second scheduled trading day immediately preceding the maturity date, holders may convert all or any portion of their 2029 Notes, in multiples of $1,000 principal amount, at the option of the holder regardless of the foregoing circumstances.

The circumstances described in the bullets of the paragraph above were not met during the third quarter of 2023. As of September 30, 2023, the 2029 Notes are not convertible. The 2029 Notes may become convertible in future periods. Upon any conversion requests of the 2029 Notes, the Company would be required to pay or deliver, as the case may be, cash, shares of its common stock, or a combination of cash and shares of its common stock, at the Company's election with respect to such conversion requests. To the extent there are any conversion requests during the twelve months ending September 30, 2024, the Company intends to settle such conversion requests in shares of common stock. Therefore, as of September 30, 2023, the 2029 Notes have been included as Long-term debt on the consolidated balance sheet.

The Company may not redeem the 2029 Notes prior to December 5, 2025. On or after December 5, 2025, the Company may redeem for cash all or any portion of the 2029 Notes, at the Company's option, if the last reported sale price of the Company's common stock has been at least 130% of the conversion price then in effect for at least 20 trading days (whether or not consecutive) during any 30 consecutive trading day period (including the last trading day of such period) ending on, and including, the trading day immediately preceding the date on which the Company provides notice of redemption at a redemption price equal to 100% of the principal amount of the 2029 Notes to be redeemed, plus accrued and unpaid interest to, but excluding, the redemption date. If the Company elects to redeem fewer than all of the outstanding 2029 Notes, at least $100.0 million aggregate principal amount of 2029 Notes must be outstanding and not subject to redemption as of the relevant redemption notice date.

If a specified corporate event occurs, 2029 Note holders have the option to require the Company to repurchase any portion or all of their 2029 Notes in $1,000 principal increments for cash. The price for such repurchase is calculated as 100% of the principal amounts of 2029 Notes, plus accrued and unpaid interest to the day immediately preceding the Fundamental Change repurchase date. Additionally, holders of the 2029 Notes who convert in connection with a fundamental change are, under certain circumstances, entitled to an increase in conversion rate.

The 2029 Notes are general senior unsecured obligations that rank senior to any of the Company's indebtedness that is explicitly subordinated to the 2029 Notes. The 2029 Notes have equal rank in right of payment with all existing and future unsecured indebtedness that is not subordinated to the 2029 Notes (including the 2026 Notes and 2028 Notes). The 2029 Notes will be junior to any of the Company's secured indebtedness to the extent of the value of the assets securing such indebtedness.

The estimated fair value of the 2029 Notes was approximately $69.4 million as of September 30, 2023, which the Company determined through consideration of market prices. The fair value measurement is classified as Level 2, as defined in *Note 3*.

Certain Covenants for the Convertible Notes

Pursuant to the terms of the indentures that govern the Convertible Notes, the Company is required to file with U.S. Bank Trust Company, National Association (the "Trustee"), as trustee under each of the indentures governing the Convertible Notes, within 15 days after the same are required to be filed with the SEC (giving effect to any grace period provided by Rule 12b-25 under the Exchange Act), copies of any annual report on Form 10-K or quarterly reports on Form 10-Q that the Company is required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act. To the extent the Company elects, the sole remedy for an event of default under the indenture governing a series of Convertible Notes relating to its failure to comply with this obligation (which shall occur upon failure by the Company for 60 days after receipt of written notice from the Trustee or the holders of 25% in aggregate principal amount the Convertible Notes of such series to comply with this obligation) shall, for the first 360 days after the occurrence of such an event of default, consist exclusively of the right for the holders of Convertible Notes of such series to receive additional interest on their Convertible Notes at a rate equal to (i) 0.25% per year for each day during the first 180 days after the occurrence and during the continuance of such event of default and (ii) 0.50% per year for each day from, and including, the 181st day to, but excluding, the 360th day after the occurrence and during the continuance of such event of default. On the 361st day after such event of default, if not previously cured or waived, the Convertible Notes of the applicable series shall be subject to acceleration pursuant to the terms of the indenture governing the Convertible Notes of such series. In the event the Company does not elect to pay additional interest on a series of Convertible Notes prior to the occurrence of an event of default relating to the Company's failure to comply with this obligation, or the Company elects to make such payment but does not pay the additional interest on such Convertible Notes when due, the Convertible Notes of such series shall be immediately subject to acceleration at the election of either the Trustee or the holders of at least 25% in aggregate principal amount of the Convertible Notes of such series.

Additionally, if at any time during the six-month period beginning on, and including, the date that is six months after the last date of original issuance of a series of Convertible Notes, the Company fails to timely file any document or report that it is required to file with the SEC pursuant to Section 13 or 15(d) of the Exchange Act, as applicable (after giving effect to all applicable grace period thereunder and other than reports on Form 8-K), or the Convertible Notes of such series are not otherwise freely tradable pursuant to Rule 144 as promulgated under the Securities Act of 1933, as amended, the Company shall pay additional interest on such Convertible Notes at a rate of 0.50% per year for each day during such period for which the Company's failure to file has occurred and is continuing or such Convertible Notes are not otherwise freely tradable pursuant to Rule 144. Additional interest pursuant to the foregoing accrued on the outstanding principal amount of the 2029 Notes from November 24, 2023 to the one-year anniversary of the last date of original issuance of the 2029 Notes on December 12, 2023 was not material.

The Convertible Notes contain additional customary operating covenants, which include restrictions on the Company's ability to undergo a merger or consolidation transaction, or transfer or lease substantially all of the consolidated properties and assets of the Company. The Convertible Notes do not contain any financial covenants or restrictions on the payment of dividends, the issuance of other indebtedness or the issuance or repurchase of securities by the Company.

Capped Call Transactions

In connection with the issuance of each series of the Convertible Notes, the Company entered into capped call transactions with certain option counterparties. The capped call transactions are generally intended to reduce the potential dilution of the Company's common stock upon any conversion or settlement of the applicable series of Convertible Notes or to offset any cash payment the Company is required to make in excess of the principal amount upon conversion of the applicable series of Convertible Notes, as the case may be, with such reduction or offset subject to a cap based on the cap price. If the market price per share of the Company's common stock exceeds the cap price of the applicable capped call transactions, then the Company's stock would experience some dilution and/or such capped call transactions would not fully offset the potential cash payments, in each case, to the extent the then-market price per share of its common stock exceeds the applicable cap price.

In connection with the offering of the 2026 Notes, the Company purchased from the option counterparties capped call options that in the aggregate relate to the total number of shares of the Company's common stock underlying the convertible notes, with a strike price equal to the conversion price of the convertible notes and with an initial cap price equal to $45.535, which represented a 75% premium over the last reported sale price of the Company's common stock of $26.02 per share on March 4, 2021, with certain adjustments to the settlement terms that reflect standard anti-dilution provisions. The capped call transactions expire over 40 consecutive scheduled trading days ended on March 12, 2026. The capped calls were purchased for $16.1 million.

In connection with the offering of the 2028 Notes, the Company purchased from the option counterparties capped call options that in the aggregate related to the total number of shares of the Company's common stock underlying the 2028 Notes sold to the initial purchasers in the offering of 2028 Notes, with a strike price equal to the conversion price of the 2028 Notes and with an initial cap price equal to $82.62, which represents a 100% premium over the last reported sale price of the Company's common stock of $41.31 per share on May 24, 2022, with certain adjustments to the settlement terms that reflect standard anti-dilution provisions. These capped call transactions expire over 40 consecutive scheduled trading days ended on May 30, 2028. The capped calls were purchased for $32.0 million, net of issuance costs.

In connection with the offering of the 2029 Notes, the Company purchased from the option counterparties capped call options that in the aggregate related to the total number of shares of the Company's common stock underlying the 2029 Notes sold to the initial purchasers in the offering of 2029 Notes, with a strike price equal to the conversion price of the 2029 Notes and with an initial cap price equal to $99.21, which represents a 100% premium over the last reported sale price of the Company's common stock of $49.66 per share on December 7, 2022, with certain adjustments to the settlement terms that reflect standard anti-dilution provisions. These capped call transactions expire over 40 consecutive scheduled trading days ended on May 30, 2029. The capped calls were purchased for $25.1 million, net of issuance costs.

The Company evaluated the capped call transactions under authoritative accounting guidance and determined that they should be accounted for as a separate transaction and classified as a net reduction to Additional paid-in capital within stockholders' equity with no recurring fair value measurement recorded.

The Company early adopted ASU 2020-6, Debt—Debt with Conversion and Other Options (Subtopic 470-20) and Derivatives and Hedging— Contracts in Entity's Own Equity (Subtopic 815-40) on January 1, 2021. In accordance with Subtopic 470-20 and 815-40, as revised by ASU 2020-6, the Company records the convertible notes in long-term debt with no separation between the Notes and the conversion option. Each reporting period, the Company will determine whether any criteria is met for the note holders to have the option to redeem the Notes early, which could result in a change in the classification of the Notes to current liabilities.

Debt Issuance Cost

The issuance costs related to the Convertible Notes are presented in the condensed consolidated balance sheet as a direct deduction from the carrying amount of the Convertible Notes. The issuance costs are amortized using an effective interest method basis over the term of the Convertible Notes. The effective interest rates on the 2026 Notes, 2028 Notes, and 2029 Notes are 2.98%, 2.82%, and 4.63%, respectively. Interest expense for the three and nine month periods ended September 30, 2023 including the amortization of debt issuance cost, totaled approximately $3.5 million and $10.5 million, respectively. Interest expense for the three and nine month periods ended September 30, 2022, including the amortization of debt issuance cost, totaled approximately $2.1 million and $4.6 million, respectively.

Loan and Security Agreement

On July 9, 2020, the Company entered into a Loan and Security Agreement with Silicon Valley Bank for a four-year secured revolving loan facility (“SVB Revolving Line of Credit”) in an aggregate principal amount of up to $30.0 million. The SVB Revolving Line of Credit matures on July 9, 2024.

In order to draw on the full amount of the SVB Revolving Line of Credit, the Company must satisfy certain liquidity ratios. If the Company is unable to meet these liquidity ratios, then availability under the revolving line is calculated as 80% of the Company’s qualifying accounts receivable. The proceeds of the revolving loans may be used for general corporate purposes. The Company’s obligations under the Loan and Security Agreement with Silicon Valley Bank are secured by substantially all of the assets of the Company. Interest on principal amount outstanding under the revolving line shall accrue at a floating per annum rate equal to the greater of either 1.75% above the Prime Rate or five percent (5.0%). The Company paid a non-refundable revolving line commitment fee of $0.3 million, on the effective date of the Loan and Security Agreement with Silicon Valley Bank of July 9, 2020, and the Company is required to pay an anniversary fee of $0.3 million on each twelve-month anniversary of the effective date of the Loan and Security Agreement.

The Loan and Security Agreement with Silicon Valley Bank contains customary affirmative covenants, such as financial statement reporting requirements and delivery of borrowing base certificates, as well as customary covenants that restrict the Company’s ability to, among other things, incur additional indebtedness, sell certain assets, guarantee obligations of third parties, declare dividends, or make certain distributions, and undergo a merger or consolidation or certain other transactions. The Loan and Security Agreement also contains certain financial covenants, but it is only applicable if the Company has an outstanding balance under the loan facility.

The Loan and Security Agreement has been amended since inception to permit the issuance of the Convertible Notes and related capped call transactions and to remove the quarterly minimum revenue requirement. On March 26, 2023, the FDIC announced that it had entered into a purchase and assumption agreement with First Citizens Bank & Trust Company under which all deposits of the former Silicon Valley Bank were assumed by First Citizens Bank & Trust Company. In addition, under the purchase and assumption agreement, First Citizens Bank & Trust Company assumed Silicon Valley Bank’s obligations under the Company’s Loan and Security Agreement.

The Company and First Citizens Bank & Trust Company agreed to amend the requirement for Cutera to maintain substantially all of its funds with First Citizens Bank & Trust Company and allowed up to 50% of the Company’s funds to be invested with institutions other than First Citizens Bank & Trust Company.

As of September 30, 2023, the Company had not drawn on the loan facility and the Company is in compliance with all financial covenants.

Note 15. Segment Reporting

Segment reporting is based on the “management approach,” following the method that management organizes the Company’s reportable segments for which separate financial information is made available to, and evaluated regularly by, the chief operating decision maker in allocating resources and in assessing performance. The Company’s chief operating decision maker ("CODM") is its Chief Executive Officer ("CEO"), who makes decisions on allocating resources and assessing performance.

Beginning in the fourth quarter of 2022, the Company segregates its operations into two reportable business segments: (i) Cutera Core and (ii) AviClear. This segregation aligns the Company’s operating business segments with the way the CEO reviews the Company's operations.

The Company measures the financial results of its reportable segments using an internal performance measure that excludes certain non-cash and non-recurring expenses.

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
	(Dollars in thousands)		(Dollars in thousands)	
Net revenue				
Cutera Core	$ 42,589	$ 61,653	$ 150,409	$ 183,755
AviClear	3,889	1,155	12,420	1,291
Total net revenue	$ 46,478	$ 62,808	$ 162,829	$ 185,046
Segment loss				
Cutera Core	(22,643)	5,953	(40,485)	16,174
AviClear	(6,105)	(7,906)	(19,057)	(23,568)
Total segment loss	(28,748)	(1,953)	(59,542)	(7,394)
Items not allocated to segments				
Stock-based compensation	(1,616)	(4,245)	(6,552)	(13,021)
ERP implementation costs	(1,457)	(1,351)	(2,745)	(7,712)
Depreciation and amortization	(4,732)	(1,195)	(12,310)	(3,342)
Board of Directors legal and advisory fee	(2,030)	—	(9,739)	—
Retention plan costs	(1,366)	—	(4,338)	—
Legal fees, severance, and other	(998)	(689)	(3,485)	(1,185)
Consolidated loss from operations	(40,947)	(9,433)	(98,711)	(32,654)
Interest and other expense, net	(3,160)	(1,874)	(6,124)	(41,024)
Consolidated loss before income taxes	$ (44,107)	$ (11,307)	$ (104,835)	$ (73,678)

	Nine Months Ended September 30,	
Capital spending	2023	2022
Cutera Core	$ 267	$ 1,053
AviClear	30,375	13,054
Total segment capital spending	$ 30,642	$ 14,107
Corporate	—	—
Total capital spending	$ 30,642	$ 14,107

Total assets	**September 30, 2023**	**December 31, 2022**
Cutera Core	$ 132,587	$ 154,978
AviClear	78,517	47,406
Total segment assets	$ 211,104	$ 202,384
Corporate	195,529	318,604
Total assets	$ 406,633	$ 520,988

The following table presents a summary of revenue by geography and product category for the three and nine months ended September 30, 2023 and 2022 (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
Revenue mix by geography:				
United States	$ 21,526	$ 28,074	$ 69,630	$ 79,290
Japan	11,529	15,263	37,247	47,940
Asia, excluding Japan	3,440	6,166	14,494	14,881
Europe	3,864	4,711	14,477	14,827
Rest of the World	6,119	8,594	26,981	28,108
Total consolidated revenue	$ 46,478	$ 62,808	$ 162,829	$ 185,046
Revenue mix by product category:				
Systems	$ 26,277	$ 40,985	$ 97,490	$ 121,152
AviClear	3,889	1,155	12,420	1,291
Consumables	3,682	4,964	11,680	14,029
Skincare	7,141	9,436	24,695	30,723
Total product revenue	40,989	56,540	146,285	167,195
Service	5,489	6,268	16,544	17,851
Total consolidated revenue	$ 46,478	$ 62,808	$ 162,829	$ 185,046

In the fourth quarter of fiscal year ending December 31, 2023, the Company determined a realignment of its operating segments to further drive its long-term strategic objectives. Management reorganized its management reporting structure and began to manage its operations under one segment structure. The Company reassessed its reportable segments in the fourth quarter of fiscal year 2023 and determined a change in its reportable segments was needed to align with its management reporting structure. The Company will report one consolidated reportable segment beginning the fourth quarter of fiscal year ending December 31, 2023.

Note 16. Subsequent Events

New warehouse facility

On January 16, 2024, the Company entered into a thirty-seven-month lease agreement. The lease is for 53,000 square feet of warehouse space in Hayward, California. This space was leased to consolidate current inventory locations in Northern California. The term of the lease expires on February 28, 2027, and requires total payments over the lease term of approximately $2.5 million.

Change in classification of AviClear parts and devices not placed in service

In November 2023, the Company introduced a new business model for AviClear, providing for the purchase of the device upfront, with a corresponding reduction in ongoing treatment costs. From the FDA approval in April 2022 through October 2023, AviClear devices were leased to customers, and parts and devices not yet placed in service were recorded as property and equipment on the condensed consolidated balance sheet. These were further categorized as assets under construction in *Note 5. Balance Sheet Details* to the condensed consolidated financial statements. As a result of the new business model, the Company has determined that AviClear parts and devices not currently leased will be classified as inventories at December 31, 2023. AviClear devices currently leased will continue to be classified as property and equipment on the condensed consolidated balance sheet. The Company is currently evaluating the potential impact on the carrying value of parts and devices resulting from the reclassification from property and equipment to inventories. As of September 30, 2023, the balances of AviClear assets under construction and AviClear devices, net of accumulated depreciation, were $28.5 million and $36.6 million, respectively.

Termination of skincare distribution agreement

On February 28, 2024, the Company and its Japanese subsidiary, Cutera KK, entered into a Business Transfer and Termination Agreement (the “Termination Agreement”) with ZO USA and its Japanese subsidiary, ZO Skin Health GK (“ZO Japan” and together with ZO USA and their affiliates, “ZO”), which, among other things, (i) terminates all agreements related to the distribution by the Company of ZO’s products in Japan effective immediately, (ii) provides for the orderly transition of the distribution of ZO products to ZO, (iii) transfers certain Company employees dedicated to the distribution of ZO products to ZO, (iv) transfers certain customer contracts related to ZO products from the Company to ZO and (v) transfers certain inventory and assets related to the distribution of ZO products from the Company to ZO. The Termination Agreement requires ZO to pay the Company $5.75 million within three business days of the execution of the Termination Agreement and make a second payment of $5.75 million, less any offsets under the Termination Agreement (including, but not limited to, 42.2% of the Company’s net revenue for sales of ZO products under the Distribution Agreement between January 1, 2024 and February 28, 2024), upon the earlier of (a) the completion the transition of regulatory and distribution activities such that ZO is able to fulfill product orders by customers in Japan, as determined by ZO and the Company, and (b) June 14, 2024.

In the nine months ended September 30, 2023, and 2022, revenue from the distribution of skincare products was $24.7 million and $30.7 million, respectively, representing 15% and 17% of the Company’s consolidated revenue, respectively.

Non-renewal of manufacturing service agreement

In November 2023, the Company communicated its intention not to renew its existing manufacturing service agreement (“Manufacturing Service Agreement”) with Jabil Inc. (“Jabil”), a third-party manufacturing provider that manufactures excel V+ and AviClear devices for the Company. As a result of the termination, the Company estimated that it would have an obligation to purchase unshipped inventory from Jabil. The Company subsequently received claims from Jabil related to other amounts associated with the termination and entered into settlement discussions with Jabil.

On February 28, 2024, the Company and Jabil signed a settlement agreement (“Settlement Agreement”) for the non-renewal of the Manufacturing Service Agreement. The Settlement Agreement provided for a payment by Cutera to Jabil of $19.5 million, to be offset by $1.3 million in amounts owed by Jabil. The $19.5 million payment to Jabil relates to the Company's receipt of $13.5 million of inventories and $0.3 million of equipment and the payment of $5.7 million as compensation for expenses either previously incurred by Jabil or associated with the non-renewal of the Manufacturing Services Agreement. The Company will also write off approximately $1.1 million of costs that were capitalized during the manufacturing service agreement period.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

This Management's Discussion and Analysis should be read in conjunction with the Company's financial condition and results of operations in conjunction with the Company's unaudited condensed consolidated financial statements and notes thereto included in Part I, Item 1 of this Quarterly Report on Form 10-Q and the Company's audited financial statements and notes thereto for the year ended December 31, 2022, included in its annual report on Form 10-K filed with the U.S. Securities and Exchange Commission ("SEC") on April 7, 2023, as amended on May 1, 2023.

Unless otherwise indicated, all results presented are prepared in a manner that complies, in all material respects, with accounting principles generally accepted in the United States of America ("GAAP"). Additionally, unless otherwise indicated, all changes identified for the current-period results represent comparisons to results for the prior corresponding fiscal period.

Special Note Regarding Forward-Looking Statements

This report contains forward-looking statements that involve risks and uncertainties. The Company's actual results could differ materially from those discussed in the forward-looking statements. The statements contained in this report that are not purely historical are forward-looking statements within the meaning of Section 27A of the Securities Act and Section 21E of the Securities Exchange Act of 1934, as amended, (the "Exchange Act"). Forward-looking statements are often identified by the use of words such as, but not limited to, "anticipate," "believe," "can," "continue," "could," "estimate," "expect," "intend," "may," "plan," "project," "seek," "should," "strategy," "target," "will," "would" and similar expressions or variations intended to identify forward-looking statements. These statements are based on the beliefs and assumptions of the Company's management based on information currently available to management. Such forward-looking statements are subject to risks, uncertainties and other important factors that could cause actual results and the timing of certain events to differ materially from future results expressed or implied by such forward-looking statements. Factors that could cause or contribute to such differences include, but are not limited to, those identified below and those discussed in the section titled "Risk Factors" included under Part II, Item 1A below.

Furthermore, such forward-looking statements speak only as of the date of this report. Except as required by law, the Company undertakes no obligation to update any forward-looking statements to reflect events or circumstances after the date of such statements.

Introduction

The Management's Discussion and Analysis, or MD&A, is organized as follows:

- ***Executive Summary.*** This section provides a general description and history of the Company's business, a brief discussion of its product lines and the opportunities, trends, challenges and risks the Company focuses on in the operation of its business.
- ***Critical Accounting Policies and Estimates.*** This section describes the key accounting policies that are affected by critical accounting estimates.
- ***Results of Operations.*** This section provides the Company's analysis and outlook for the significant line items on its condensed consolidated statements of operations.
- ***Liquidity and Capital Resources.*** This section provides an analysis of the Company's liquidity and cash flows, as well as a discussion of its commitments that existed as of September 30, 2023.

Executive Summary

Company Description

The Company develops, manufactures, distributes, and markets energy-based product platforms for medical practitioners, enabling them to offer safe and effective treatments to their customers. In addition, the Company distributes third-party manufactured skincare products and the Secret systems and consumables. The Company currently markets the following system platforms: AviClear, enlighten, excel, truSculpt, Secret PRO, Secret RF, and xeo. These platforms enable medical practitioners to perform procedures including treatment for acne, body contouring, skin resurfacing and revitalization, hair and tattoo removal, removal of benign pigmented lesions, and vascular conditions. Several of the Company's systems offer multiple hand pieces and applications, providing customers the flexibility to upgrade their systems.

The Company's corporate headquarters and U.S. operations are located in Brisbane, California, where the Company conducts manufacturing, warehousing, research and development, regulatory, sales and marketing, service, and administrative activities. The Company also maintains regional distribution centers ("RDCs") in selection locations across the U.S. These RDCs serve as forward warehousing for systems and service parts in various geographies. The Company markets sells and services the Company's products through direct sales and service employees in North America (including Canada), Australia, Austria, Belgium, France, Germany, Hong Kong, Japan, the Netherlands, Spain, Switzerland, and the United Kingdom. Sales and services outside of these direct markets are made through a worldwide distributor network in over 39 countries. The consolidated financial statements include the accounts of the Company and its subsidiaries. All inter-company transactions and balances have been eliminated.

Products and Services

The Company derives revenue from the sale of products and services. Product revenue includes revenue from the sale of systems, hand pieces and upgrade of systems (collectively "Systems" revenue), leasing of AviClear devices for acne treatment ("AviClear" revenue), replacement hand pieces, truSculpt cycle refills, and truFlex cycle refills, as well as single use disposable tips applicable to third-party manufactured Secret RF systems ("Consumables" revenue), and the sale of third-party manufactured skincare products ("Skincare" revenue). A system consists of a console that incorporates a universal graphic user interface, a laser and (or) an energy-based module, control system software and high voltage electronics, as well as one or more hand pieces. However, depending on the application, the laser or other energy-based module is sometimes contained in the hand piece such as with the Company's Pearl and Pearl Fractional applications instead of within the console.

The Company currently markets the following key platforms: AviClear, enlighten, excel, truSculpt, Secret PRO, Secret RF, and xeo. These platforms enable medical practitioners to perform procedures including treatment for acne, body contouring, skin resurfacing and revitalization, hair and tattoo removal, removal of benign pigmented lesions, and vascular conditions.

The Secret systems are manufactured by Ilooda Co. Ltd. ("Ilooda"), and Company is the exclusive distributor for all systems sold in the United States, Canada, the United Kingdom; the exclusive distributor for certain systems in France, and Spain; and the non-exclusive distributor for systems sold in Austria and Germany.

Several of the Company's systems offer multiple hand pieces and applications, providing customers the flexibility to upgrade their systems whenever they choose and provides the Company with a source of additional Systems revenue.

Skincare revenue relates to the distribution of ZO Skin Health, Inc's. ("ZO") skincare products in Japan. The skincare products are purchased from a third-party manufacturer and sold to medical offices and licensed physicians. The Company acts as the principal in this arrangement, as the Company determines the price to charge customers for the skincare products and controls the products before they are transferred to the customer. On February 28, 2024, the Company entered into a Business Transfer and Termination Agreement with ZO, which, among other things, terminates all agreements related to the distribution by the Company of ZO's products in Japan effective immediately. Refer to *Note 16. Subsequent Events*.

Service includes prepaid service contracts, and labor, time and material on out-of-warranty products.

Significant Business Trends

The Company believes that the ability to grow revenue will be primarily impacted by the following:

- capturing market share in the acne space with AviClear;
- continuing to expand the Company's product offerings, both through internal development and sourcing from other vendors;
- ongoing investment in the Company's global sales and marketing infrastructure;
- use of clinical results to support new aesthetic products and applications;
- customer demand for the Company's products;
- consumer demand for the application of the Company's products;
- marketing to physicians in the core dermatology and plastic surgeon specialties, as well as outside those specialties; and
- generating recurring revenue from the Company's growing installed base of customers through the sale of system upgrades, services, hand piece refills, truSculpt cycles, skincare products and replacement tips for Secret RF products.

For a detailed discussion of the significant business trends impacting the Company's business, please see the section titled "Results of Operations" below.

Factors that May Impact Future Performance

The Company's industry is impacted by numerous competitive, regulatory and other significant factors. The Company's industry is highly competitive and the Company's future performance depends on the Company's ability to compete successfully. Additionally, the Company's future performance is dependent upon the ability to continue to expand the Company's product offerings with innovative technologies, obtain regulatory clearances for the Company's products, protect the proprietary technology of the products and manufacturing processes, manufacture the products cost-effectively, and successfully market and distribute the products in a profitable manner. If the Company fails to execute on the aforementioned initiatives, the Company's business would be adversely affected.

The Company supports any reasonable action that helps ensure patient safety going forward. The Company has a robust, multi-functional process that reviews its promotional claims and materials to ensure they are truthful, not misleading, fair and balanced, and supported by sound scientific evidence.

A detailed discussion of these and other factors that could impact the Company's future performance are provided in (1) the Company's Annual Report on Form 10-K for the year ended December 31, 2022- Part I, Item 1A "Risk Factors," and (2) other announcements the Company makes from time to time.

Risks and Uncertainties

The world is currently experiencing widespread inflation. Household budgets are tight and cash is generally being conserved and spent on essential items like housing, gas, food, clothing and healthcare. Given the inflationary environment, fewer funds may be spent on aesthetic treatments, which may translate into less demand for the Company's products and less revenue as a result.

The Company continues to assess whether any impairment of its goodwill or its long-lived assets has occurred and has determined that no charges were necessary during the three months ended September 30, 2023. The Company will continue to monitor future conditions important to its assessment of potential impairment of its long-lived assets and goodwill.

In March 2023, Serendia, LLC ("Serendia"), filed patent infringement complaints against the Company with the International Trade Commission ("ITC") and in U.S. District Court for the District of Delaware alleging infringement of six Serendia patents by the Secret RF and Secret Pro systems, which the Company distributes in the U.S. on behalf of ILOODA Co. Ltd., a Korean company. The Delaware matter has been stayed pending the ITC matter, which the Company expects to be ruled upon in the second half of 2024. If the Company is held liable for patent infringement and is unable to secure a license to the patents or re-design the allegedly infringing products, the Company may be subject to monetary damages and/or an injunction prohibiting the applicable products from being imported into the United States. The manufacturer of these products, ILOODA Co. Ltd., is obligated to defend the Company against these claims and, as a result, the Company has not incurred significant external legal costs. The Company is defending against these claims vigorously. Given the inherent uncertainties of litigation, the Company cannot guarantee that it will not be held liable for infringing one or more claims of Serendia patents. If the Company is held liable for infringement, it may be subject to monetary damages and/or an injunction prohibiting the importation or sale of the applicable products in the United States.

Critical Accounting Policies, Significant Judgments and Use of Estimates

The preparation of the Company's consolidated financial statements and related notes requires the Company to make judgments, estimates and assumptions that affect the reported amounts of assets, liabilities, revenues and expenses, and related disclosure of contingent assets and liabilities. The Company has based its estimates on historical experience and on various other assumptions that the Company believes to be reasonable under the circumstances. The Company periodically reviews its estimates and makes adjustments when facts and circumstances dictate. To the extent that there are material differences between these estimates and actual results, its financial condition or results of operations will be affected.

An accounting policy is considered to be critical if it requires an accounting estimate to be made based on assumptions about matters that are highly uncertain at the time the estimate is made, and if different estimates that reasonably could have been used, or changes in the accounting estimates that are reasonably likely to occur periodically, could materially impact the consolidated financial statements. The Company believes that its critical accounting policies reflect the more significant estimates and assumptions used in the preparation of its audited consolidated financial statements.

The accounting policies and estimates that the Company considers to be critical, subjective, and requiring judgment in their application are summarized in "Item 7-Management's Discussion and Analysis of Financial Condition and Results of Operations" in its Annual Report on Form 10-K for the year ended December 31, 2022 filed with the SEC on April 7, 2023, as amended on May 1, 2023. There have been no new or material changes to the significant accounting policies discussed in the Company's Annual Report on Form 10-K that are of significance, or potential significance, to the Company.

The Company established new accounting policies to account for the 2.25% Convertible Senior Notes due 2026 (the "2026 Notes" and, together with the 2028 Notes and 2029 Notes, the "Convertible Notes") and related transactions during the first quarter of 2021.

In March 2021, the Company issued $138.3 million aggregate principal amount of 2026 Notes in a private placement offering. In May 2022, the Company issued $240.0 million aggregate principal amount of 2028 Notes in a private placement offering. In December 2022, the Company issued $120.0 million aggregate principal amount of 2029 Notes in a private placement offering. The notes issued in March 2021 and May 2022 each bear interest at a rate of 2.25% per year and the notes issued in December 2022 bear interest at 4.00% per year. In accordance with ASU 2020-06, the Company recorded the Convertible Notes in long-term debt with no separation between the notes and the conversion option. Each reporting period, the Company will determine whether any criteria are met for the note holders to have the option to redeem the notes early. To the extent there are any conversion requests, the Company intends to settle such conversion requests in shares of common stock. Therefore, the convertible notes have been included as Long-term debt on the condensed consolidated balance sheet.

The issuance costs related to the Convertible Notes are presented in the balance sheet as a direct deduction from the carrying amount of the Convertible Notes. See *Note 14. Debt* of the unaudited condensed consolidated financial statements included in Item I, Part 1 of this Quarterly Report on Form 10-Q.

Results of Operations

The following table sets forth selected consolidated financial data for the periods indicated, expressed as a percentage of total net revenue. Percentages in this table and throughout its discussion and analysis of financial condition and results of operations may reflect rounding adjustments.

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2023	2022	2023	2022
Net revenue	100 %	100 %	100 %	100 %
Cost of revenue	86 %	45 %	67 %	45 %
Gross margin	14 %	55 %	33 %	55 %
Operating expenses:				
Sales and marketing	56 %	42 %	54 %	42 %
Research and development	10 %	10 %	10 %	11 %
General and administrative	37 %	17 %	29 %	19 %
Total operating expenses	102 %	70 %	94 %	72 %
Loss from operations	(88)%	(15)%	(61)%	(18)%
Amortization of debt issuance costs	(1)%	(1)%	(1)%	— %
Interest on convertible notes	(6)%	(3)%	(5)%	(2)%
Other expense, net	(4)%	(1)%	(2)%	(2)%
Loss before income taxes	(95)%	(18)%	(64)%	(40)%
Income tax benefit	— %	1 %	— %	— %
Net loss	(95)%	(19)%	(65)%	(40)%

Revenue

The timing of the Company's revenue is significantly affected by the mix of system products, training, consumables and extended service contracts. The revenue generated in any given period is also impacted by whether the revenue is recognized over time or at a point in time. For an additional description on revenue, see Note 1 in the notes to consolidated financial statements on the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2022 and Note 8 to the unaudited condensed consolidated financial statements included in Item I, Part 1 of this Quarterly Report on Form 10-Q.

Revenue is recognized upon transfer of control of promised products or services to customers in an amount that reflects the consideration to which the Company expects to be entitled in exchange for promised goods or services. The Company's performance obligations are satisfied either over time or at a point in time. Revenue from performance obligations that are transferred to customers over time accounted for approximately 10% and 7% of the Company's total revenue for the nine months ended September 30, 2023 and 2022, respectively. Revenue recognized over time relates to revenue from the

Company’s extended service contracts and marketing services. Revenue recognized upon delivery is primarily generated by the sales of systems, consumables and skincare.

Total Net Revenue

	Three Months Ended September 30,			Nine Months Ended September 30,		
(Dollars in thousands)	**2023**	**% Change**	**2022**	**2023**	**% Change**	**2022**
Revenue mix by geography:						
North America	$ 24,855	(25)%	$ 33,258	$ 84,494	(10)%	$94,350
Japan	11,529	(24)%	15,263	37,247	(22)%	47,940
Rest of World	10,094	(29)%	14,287	41,088	(4)%	42,756
Consolidated total revenue	$ 46,478	(26)%	$ 62,808	$ 162,829	(12)%	$ 185,046
North America as a percentage of total revenue	*53 %*		*53 %*	*52 %*		*51 %*
Japan as a percentage of total revenue	*25 %*		*24 %*	*23 %*		*26 %*
Rest of World as a percentage of total revenue	*22 %*		*23 %*	*25 %*		*23 %*
Revenue mix by product category:						
Systems - North America	$ 15,670	(38)%	$ 25,359	$ 55,873	(24)%	$73,298
Systems - Rest of World (including Japan)	10,607	(32)%	15,626	41,617	(13)%	47,854
Total Systems	26,277	(36)%	40,985	97,490	(20)%	121,152
AviClear	3,889	237 %	1,155	12,420	862 %	1,291
Consumables	3,682	(26)%	4,964	11,680	(17)%	14,029
Skincare	7,141	(24)%	9,436	24,695	(20)%	30,723
Total Products	40,989	(28)%	56,540	146,285	(13)%	167,195
Service	5,489	(12)%	6,268	16,544	(7)%	17,851
Total Net Revenue	$ 46,478	(26)%	$ 62,808	$ 162,829	(12)%	$185,046

The Company’s total net revenue decreased by $16.3 million, or 26%, in the three months ended September 30, 2023, compared to the same period in 2022. This decrease was primarily driven by Systems revenue, partially offset by AviClear revenue. In March 2022, the Company received FDA clearance for the AviClear treatment device and began limited commercial release in April 2022.

The Company's total net revenue decreased by $22.2 million, or 12%, in the nine months ended September 30, 2023, compared to the same period in 2022. This decrease in the nine-month comparison was primarily driven by Systems revenue and a decline in Japanese Skincare revenue, partially offset by AviClear revenue.

Revenue by Geography

The Company’s North America revenue decreased by $8.4 million, or 25%, and decreased by $9.9 million, or 10%, in the three and nine months ended September 30, 2023, respectively, compared to the same periods in 2022. The decreases in the three and nine-month comparisons was primarily driven by a decline in Systems revenue, partially offset by AviClear revenue.

Revenue in Japan decreased by $3.7 million, or 24%, in the three months ended September 30, 2023, compared to the same period in 2022, due to a decrease in Skincare revenue and Systems revenue. Revenue in Japan decreased by $10.7 million, or 22% in nine months ended September 30, 2023, compared to the same period in 2022, due to a decrease in Skincare revenue and Systems revenue.

The Company’s Rest of World revenue decreased by $4.2 million, or 29%, in the three months ended September 30, 2023, compared to the same period in 2022. The Company’s Rest of World revenue decreased by $1.7 million, or 4%, in the nine months ended September 30, 2023, compared to the same period in 2022 driven by declining System sales in global distributor markets and Australia.

Revenue by Product Type

Systems Revenue

Systems revenue in North America decreased by $9.7 million, or 38%, in the three months ended September 30, 2023, compared to the same period in 2022, due mainly to a decrease in unit volumes. In the nine months ended September 30, 2023, the decrease in systems revenue of $17.4 million, or 24%, was due to a decrease in both unit volumes and average selling prices (“ASPs”).

System revenue in the Rest of the World (including Japan) decreased by $5.0 million, or 32%, and $6.2 million, or 13%, in the three and nine months ended September 30, 2023, respectively, compared to the same periods in 2022. The decrease in revenue in the three and nine months ended September 30, 2023 reflects a decrease in Systems revenue in global distributor markets and Japan, which was partially offset by increased revenue in Europe.

AviClear Revenue

The AviClear revenue in the three months ended September 30, 2023, consisted of $1.3 million of lease revenue related to the fixed annual license fees and $2.6 million in revenue related to treatments performed by the lessee.

The AviClear revenue in the nine months ended September 30, 2023, consisted of $3.9 million of lease revenue related to the fixed annual license fees and $8.5 million in revenue related to treatments performed by the lessee.

AviClear received FDA approval in March 2022 and was available in a limited commercial capacity in the U.S. through the quarter ended September 30, 2022, and was fully commercially launched in the quarter ended December 31, 2022.

Consumables Revenue

Consumables revenue decreased by $1.3 million, or 26%, and $2.3 million, or 17%, in the three and nine months ended September 30, 2023, respectively, compared to the same periods in 2022. The decrease in revenue in the three and nine-month periods reflects an increase in sales promotion activity in 2022 that resulted in an increase in Consumable revenue.

Skincare Revenue

The Company’s revenue from Skincare products in Japan decreased by $2.3 million, or 24%, and $6.0 million, or 20%, in the three and nine-month periods ended September 30, 2023, respectively, compared to the same periods in 2022. The weakening of the Japanese Yen had an impact of $0.4 million and $2.4 million in the three and nine months ended September 20, 2023, respectively, compared to the same periods in 2022. The decline also reflects increased competition from alternative skincare products. On February 28, 2024, the Company entered into a Business Transfer and Termination Agreement with ZO, which, among other things, terminates all agreements related to the distribution by the Company of ZO’s products in Japan effective immediately. Refer to *Note. 16, Subsequent Events*.

Service Revenue

The Company’s Service revenue decreased by $0.8 million, or 12%, and decreased by $1.3 million, or 7%, in the three and nine months ended September 30, 2023, respectively, compared to the same periods in 2022. This decrease in the three-month comparison is due to the decrease in service contracts, and support and maintenance services, and in the nine-month comparison is primarily due to decreased sales of service contracts.

Gross Profit

	Three Months Ended September 30,			Nine Months Ended September 30,		
(Dollars in thousands)	**2023**	**2022**	**Change**	**2023**	**2022**	**Change**
Gross profit	$ 6,457	$ 34,248	$ (27,791)	$ 54,172	$ 101,080	$ (46,908)
As a percentage of total net revenue	13.9 %	54.5 %	(40.6)%	33.3 %	54.6 %	(21.4)%

The Company’s cost of revenue consists primarily of material, personnel expenses, product warranty costs, depreciation on AviClear devices, amortization of capitalized AviClear device mobilization costs, and manufacturing overhead expenses.

Gross profit as a percentage of revenue for the three months ended September 30, 2023, was 13.9% compared to 54.5% in the same period in 2022. This 40.6 percentage point decrease in gross profit in the three-month comparison mainly reflects the following factors:

- In April 2022, the Company began leasing the AviClear device. Depreciation expense on installed AviClear devices and amortization expense on capitalized lease installment costs adversely impacted the Company’s gross margin rate by 3.0 percentage points;
- Geographic and product revenue mix and the decline in revenue adversely impacted the Company’s gross margin rate by 5.7 percentage points;
- Increases in cost and inventory write-off in the Company’s Skincare business adversely impacted the Company’s gross margin by 2.7 percentage points;
- Increases in service parts and cost increases in parts, freight, and warehouse adversely impacted the Company’s gross margin rate by 2.6 percentage points;
- Increases in the Company’s reserve for excess inventory parts adversely impacted the Company’s gross margin by 10.3 percentage points; and
- Increases in costs, lower cost absorption attributable to lower production and inventory write-offs impacted the Company’s gross margin rate by 16.3 percentage points.

Gross profit as a percentage of revenue for the nine months ended September 30, 2023, was 33.3% compared to 54.6% in the same period in 2022. This 21.4 percentage point decrease in gross profit in the nine-month comparison mainly reflects the following factors:

- In April 2022, the Company began leasing the AviClear device. Depreciation expense on installed AviClear devices and amortization expense on capitalized lease installment costs adversely impacted the Company’s gross margin rate by 2.3 percentage points;
- Geographic and product revenue mix and increased pressure on ASPs adversely impacted the Company’s gross margin rate by 4.2 percentage points in the nine-month comparison;
- Weakening foreign currencies adversely impacted the Company’s gross margin rate by 1.3 percentage points in the nine-month comparison. This was primarily a result of the Company’s Skincare revenue being denominated in Japanese Yen and costs being dominated in U.S. Dollars;
- Increases in the Company's reserve for excess inventory parts adversely impacted the Company's gross margin by 3.4 percentage points; and
- Increases in costs, lower cost absorption attributable to lower production and inventory write-off's impacted the Company’s gross margin rate by 10.2 percentage points.

Sales and Marketing

	Three Months Ended September 30,			Nine Months Ended September 30,		
(Dollars in thousands)	2023	2022	Change	2023	2022	Change
Sales and Marketing	$ 25,808	$ 26,488	$ (680)	$ 88,591	$ 78,433	$ 10,158
As a percentage of total net revenue	55.5 %	42.2 %	13.3 %	54.4 %	42.4 %	12.0 %

Sales and marketing expenses consist primarily of personnel expenses, expenses associated with customer-attended workshops and trade shows, post-marketing studies, advertising, and training.

Sales and marketing expenses for the three months ended September 30, 2023, decreased $0.7 million, compared to the same period in 2022. This decrease was primarily attributable to a $1.0 million decrease in stock-based compensation expense.

Sales and marketing expenses for the nine months ended September 30, 2023, increased $10.2 million, compared to the same period in 2022. This increase reflects headcount growth related to the promotion and sale of AviClear, such as payroll-related costs and commission expense, which increased $3.8 million. Also contributing to the increase in sales and marketing expenses was an increase in promotional and marketing activities and consulting services of $1.8 million and $3.1 million, respectively.

Research and Development (“R&D”)

	Three Months Ended September 30,			Nine Months Ended September 30,		
(Dollars in thousands)	2023	2022	Change	2023	2022	Change
Research and development	$ 4,592	$ 6,389	$ (1,797)	$ 16,844	$ 19,747	$ (2,903)
As a percentage of total net revenue	9.9 %	10.2 %	(0.3)%	10.3 %	10.7 %	(0.4)%

R&D expenses consist primarily of personnel expenses, clinical research, regulatory and material costs. R&D expenses decreased by $1.8 million and $2.9 million in the three and nine-month comparisons, respectively. These decreases reflect a decrease in stock-based compensation expense of $0.6 million and $1.6 million in the three and nine-month comparisons, respectively. Additionally, the decrease was further attributable to the decrease in outside consultancy services utilized by the Company.

General and Administrative ("G&A")

	Three Months Ended September 30,			Nine Months Ended September 30,		
(Dollars in thousands)	2023	2022	Change	2023	2022	Change
General and administrative	$ 17,004	$ 10,804	$ 6,200	$ 47,448	$ 35,554	$ 11,894
As a percentage of total net revenue	36.6 %	17.2 %	19.4 %	29.1 %	19.2 %	9.9 %

G&A expenses consist primarily of personnel expenses, legal, accounting, audit and tax consulting fees, as well as other general and administrative expenses.

G&A expenses for the three months ended September 30, 2023, increased $6.2 million, compared to the same period in 2022. This increase reflected an increase in professional fees of $2.4 million and an expense of $2.5 million associated with an increase in the Company's allowance for credit losses.

G&A expenses for the nine months ended September 30, 2023, increased $11.9 million, compared to the same period in 2022. This increase was primarily due to an $8.8 million increase in legal and advisory expenses incurred in connection with the Company's response to litigation and shareholder activism related to the Company's 2023 annual meeting of stockholders. Expense associated with an increase in the Company's allowance for credit losses resulted in an increase in expense of $5.4 million. These increases were partially offset by a decrease in stock-based compensation expense of $3.3 million primarily resulting from the departure of several executives and Board directors in the three months ended June 30, 2023, which resulted in a reversal of previously-recorded stock-based compensation expense related to forfeited awards.

Interest and Other Expense, Net

Interest and other expense, net, consists of the following:

	Three Months Ended September 30,			Nine Months Ended September 30,		
(Dollars in thousands)	2023	2022	Change	2023	2022	Change
Amortization of debt issuance costs	$ (561)	$ (400)	$ (161)	$ (1,670)	$ (917)	$ (753)
Interest on convertible notes	(2,939)	(1,739)	(1,200)	(8,836)	(3,666)	(5,170)
Loss on extinguishment of convertible notes	—	—	—	—	(34,423)	34,423
Interest income (expense), net	2,288	1,141	1,147	6,946	1,536	5,410
Other expense, net	(1,948)	(876)	(1,072)	(2,564)	(3,554)	990
Interest and other expense, net	$ (3,160)	$ (1,874)	$ (1,286)	$ (6,124)	$ (41,024)	$ 34,900

Interest and other expense, net, decreased $1.3 million and $34.9 million for the three and nine months ended September 30, 2023, respectively, compared to the same periods in 2022.

The issuance of the 2028 Notes and 2029 Notes in May 2022 and December 2022, respectively, resulted in an increase in interest income due to the increase in the Company's cash and marketable investments, and an increase in convertible note interest expense.

Provision for Income Taxes

(Dollars in thousands)	Three Months Ended September 30, 2023	2022	Change	Nine Months Ended September 30, 2023	2022	Change
Income tax expense	$ 167	$ 827	$ (660)	$ 765	$ 874	$ (109)

The Company's income tax expense was $0.2 million and $0.8 million for the three and nine months ended September 30, 2023, respectively, compared to a $0.8 million expense and $0.9 million expense for the same periods in 2022.

Segment Results of Operations

	Three Months Ended September 30, 2023			Three Months Ended September 30, 2022		
(Dollars in thousands)	Cutera Core	AviClear	Total	Cutera Core	AviClear	Total
Revenue	$ 42,589	$ 3,889	$ 46,478	$ 61,653	$ 1,155	$ 62,808
Segment loss	$ (22,643)	$ (6,105)	$ (28,748)	$ 5,953	$ (7,906)	$ (1,953)
Loss from operations	$ (30,954)	$ (9,993)	$ (40,947)	$ (850)	$ (8,583)	$ (9,433)
Interest and other income (expense), net			(3,160)			(1,874)
Loss before income taxes			$ (44,107)			$ (11,307)

	Nine Months Ended September 30, 2023			Nine Months Ended September 30, 2022		
(Dollars in thousands)	Cutera Core	AviClear	Total	Cutera Core	AviClear	Total
Revenue	$ 150,409	$ 12,420	$ 162,829	$ 183,755	$ 1,291	$ 185,046
Segment loss	$ (40,485)	$ (19,057)	$ (59,542)	$ 16,174	$ (23,568)	$ (7,394)
Loss from operations	$ (69,308)	$ (29,403)	(98,711)	$ (7,602)	$ (25,052)	$ (32,654)
Interest and other income (expense), net			(6,124)			(41,024)
Loss before income taxes			$ (104,835)			$ (73,678)

Cutera Core

The Cutera Core reportable segment consists of the Company’s systems, consumables, skincare, and service businesses. The Cutera Core segment develops, distributes and manufactures energy-based systems for medical practitioners in addition to distributing third-party manufactured skincare products in Japan. The installed base of systems provides opportunities for the segment to earn revenues through service contracts, consumables, and replacement hand pieces.

Three months ended September 30, 2023, compared to three months ended September 30, 2022

The Cutera Core segment’s revenue decreased by $19.1 million in the three months ended September 30, 2023, compared to the three months ended September 30, 2022. This decrease reflected a decrease in system sales of $14.7 million due to ASP and unit volume decreases, and a decrease in Consumables and Skincare revenue of $1.3 million and $2.3 million, respectively.

The Cutera Core segment recorded a segment loss of $22.6 million in the three months ended September 30, 2023, compared to segment income from operations of $6.0 million in the three months ended September 30, 2022. This $28.6 million adverse change mainly reflects a decrease in gross margin contribution of $26.2 million and an increase in credit loss expense of $4.0 million. The decrease in gross margin contribution reflects geographic revenue mix, primarily lower North American volume sales and higher foreign distributor sales, an increase in the Company's reserve for excess inventory parts, and cost increases in parts.

The Cutera Core segment recorded a segment loss from operations of $31.0 million in the three months ended September 30, 2023, compared to a loss from operations of $0.9 million in the three months ended September 30, 2022. This $30.1 million adverse change is $1.5 million greater than the $28.6 million adverse change in segment loss. This is due mainly to $2.0 million incurred in connection with the Company's response to litigation and shareholder activism related to the Company's 2023 annual meeting of stockholders, retention plan costs of $1.3 million, partially offset by a decrease in stock-based compensation expense of $2.4 million.

Nine months ended September 30, 2023, compared to nine months ended September 30, 2022

The Cutera Core segment's revenue decreased by $33.3 million in the nine months ended September 30, 2023, compared to the nine months ended September 30, 2022. This adverse change mainly reflects a decrease in system sales of $23.6 million due to ASP and unit volume decreases, a decrease of $6.0 million in Skincare revenue due mainly to the weakening Japanese Yen and increased competition from alternative skincare products, and a $2.3 million decrease in Consumable revenue.

The Cutera Core segment recorded a segment loss of $40.5 million in the nine months ended September 30, 2023, compared to segment income of $16.2 million in the nine months ended September 30, 2022. This $56.7 million adverse change mainly reflects a decrease in gross margin contribution of $49.2 million, increases in credit loss expense of $5.4 million, and sales bonus expense of $3.7 million. The decrease in gross margin contribution reflects Geographic revenue mix, primarily lower North America volume sales and higher foreign distributor sales, an increase in the Company's reserve for excess inventory parts, the effects of a weakening Japanese Yen on the Company's Skincare business, and cost increases in manufacturing.

The Cutera Core segment recorded a segment loss from operations of $69.3 million in the nine months ended September 30, 2023, compared to a loss from operations of $7.6 million in the nine months ended September 30, 2022. This $61.7 million adverse change is $5.0 million greater than the $56.7 million adverse change in segment loss. This is due mainly to $9.7 million incurred in connection with the Company's response to litigation and shareholder activism related to the Company's 2023 annual meeting of stockholders, retention plan costs of $4.1 million, partially offset by a decrease in stock-based compensation expense of $6.2 million and a decrease in costs related to an ERP implementation.

AviClear

The Company's AviClear reportable segment consists of the AviClear business. The Company's acne solution, AviClear, is a prescription-free, drug-free laser treatment for the treatment of mild to severe acne. The Company began earning revenue from its AviClear device following FDA approval in March 2022. The Company leases the AviClear device to customers in North America and receives a fixed annual license fee over the term of the arrangement and variable revenue related to number of treatments performed by the lessee.

Three months ended September 30, 2023, compared to three months ended September 30, 2022

In the three months ended September 30, 2023, the Company recorded $1.3 million in lease license fee revenue and $2.6 million in treatment revenue.

The AviClear segment recorded a segment loss of $6.1 million in the three months ended September 30, 2023, compared to a segment loss of $7.9 million in the three months ended September 30, 2022. This $1.8 million favorable change mainly reflects gross margin contribution on the $2.7 million increase in revenue recorded in the three months ended September 30, 2023.

The AviClear segment recorded a segment loss from operations of $10.0 million in the three months ended September 30, 2023, compared to a segment loss from operations of $8.6 million in the three months ended September 30, 2022. This $1.4 million adverse change represents a $3.2 million increase in expense compared to the $1.8 million favorable change in segment loss. This $3.2 million increase in expense was primarily attributable to the increase in depreciation and amortization expense, including contract acquisition cost amortization, of $3.4 million.

Nine months ended September 30, 2023, compared to nine months ended September 30, 2022

In the nine months ended September 30, 2023, the Company recorded $3.9 million in lease license fee revenue and $8.5 million in treatment revenue.

The AviClear segment recorded a segment loss of $19.1 million in the nine months ended September 30, 2023, compared to a segment loss of $23.6 million in the nine months ended September 30, 2022. This $4.5 million favorable change mainly reflects gross margin contribution on the $11.1 million increase in revenue in the nine months ended September 30, 2023.

The AviClear segment recorded a segment loss from operations of $29.4 million in the nine months ended September 30, 2023, compared to a loss from operations of $25.1 million in the nine months ended September 30, 2022. This $4.3 million adverse change represents a $8.9 million increase in expense compared to the $4.5 million favorable change in segment loss in the nine-month comparison. This $8.9 million increase in expense was primarily attributable to the increase in depreciation and amortization expense, including contract acquisition cost amortization, of $9.0 million.

Liquidity and Capital Resources

The Company’s principal source of liquidity in the three months ended September 30, 2023, was cash generated from net proceeds from the issuance of the Convertible Notes in March 2021, May 2022 and December 2022. The Company actively manages its cash usage to ensure the maintenance of sufficient funds to meet its cash requirements. The majority of the Company’s cash, cash equivalents, and investments are held in U.S. banks. The Company's foreign subsidiaries maintain a limited amount of cash in their local banks to cover short-term operating expenses.

As of September 30, 2023 and December 31, 2022, the Company had $218.9 million and $345.4 million of working capital, respectively. Cash, cash equivalents, restricted cash and marketable investments decreased by $137.8 million to $180.2 million as of September 30, 2023, from $318.0 million as of December 31, 2022, driven by net loss adjusted for non-cash items of $78.5 million, changes in assets and liabilities of $25.4 million and capital expenditures of $30.6 million.

When preparing financial statements, management has the responsibility to evaluate if the Company has adequate liquidity to continue to operate for the next twelve months. In performing this assessment, management considered the Company's current financial condition and liquidity sources, including current funds, forecasted future cash flows and unconditional obligations due over the next twelve months. In addition, management evaluated the history of the Company's financial performance, and determined that the Company has had a historic trend of operating losses, which continues to have an unfavorable impact on the Company's overall liquidity. Most recently, the Company reported net losses of $44.3 million and $105.6 million for the three and nine months ended September 30, 2023, respectively. The Company also reported operating losses for the year ended December 31, 2022.

The Company’s continued operations will depend on several factors, including but not limited to, growth of revenues from its revised business model for AviClear, maintaining or increasing revenues from sales of legacy systems, consumables and services, achieving cost savings as a result of workforce reductions implemented in the fourth quarter of 2023, restructuring of supplier and manufacturing relationships, and initiatives to improve inventory and receivables management. Failure to increase revenue, achieve cost savings, raise additional financing or re-finance the existing convertible notes when they become due, would adversely affect the Company’s ability to achieve its intended business objectives. There can be no assurances that financing will be available on terms favorable to the Company, if at all, and delays may occur in completing the operating activities.

The Company intends to continue to evaluate market conditions and may in the future pursue additional sources of funding to enhance its financial position and to execute on its business strategy. In addition, should prevailing economic, financial, business or other factors adversely affect its ability to meet its operating cash requirements, the Company could be required to obtain funding though the credit or capital markets. Any equity financing obtained by the Company would dilute existing stockholders and any debt financing could contain restrictive covenants, which would reduce management’s flexibility to run the Company’s business or present a risk of default. If the Company raises funds through collaborations or licensing arrangements, the Company may be required to relinquish significant rights to its technologies or products or grant licenses on terms that are not favorable to the Company. The Company cannot be certain that additional funds would be available to it on favorable terms when required, or at all.

Cash, Cash Equivalents, Restricted Cash and Marketable Investments

The following table summarizes the Company's cash and cash equivalents, restricted cash and marketable investments:

(Dollars in thousands)	September 30, 2023	December 31, 2022	Change
Cash and cash equivalents	$ 179,516	$ 145,924	$ 33,592
Restricted cash	700	700	—
Marketable investments	—	171,390	(171,390)
Total	$ 180,216	$ 318,014	$ (137,798)

Cash Flows

(Dollars in thousands)	Nine Months Ended September 30, 2023	2022
Net cash flow provided by (used in):		
Operating activities	$ (103,866)	$ (49,968)
Investing activities	139,794	(219,389)
Financing activities	(2,336)	151,073
Net increase (decrease) in cash and cash equivalents	$ 33,592	$ (118,284)

Cash Flows from Operating Activities

During the nine months ended September 30, 2023, net cash used in operating activities resulted in $103.9 million, which comprised net loss adjusted for non-cash items of $78.5 million, which was primarily influenced by the factors noted in the preceding *Result of Operations* section indicating a deteriorated bottom line in comparison to the nine months ended September 30, 2023. The net cash used in operating activities were further adjusted by the changes in assets and liabilities of $25.4 million. The change in the Company's working capital primarily resulted from an increase in accounts receivable and decreases in accounts payable and accrued liabilities, reflecting proactive measures by the Company's management to settle payables and obligations.

Cash Flows from Investing Activities

Net cash provided by investing activities was $139.8 million in the nine months ended September 30, 2023, which was attributable to the net sale of marketable investments of $170.4 million, partially offset by an $30.6 million increase in the AviClear device and assets under construction balances.

Cash Flows from Financing Activities

Net cash used in financing activities was $2.3 million in the nine months ended September 30, 2023, which was primarily due to taxes paid related to net share settlement of equity awards.

Adequacy of Cash Resources to Meet Future Needs

The Company had cash and cash equivalents of $179.5 million as of September 30, 2023. For the three months ended September 30, 2023, the Company's principal source of liquidity was cash generated from proceeds received from the issuance of the Convertible Notes in March 2021, May 2022, and December 2022. The Company has reported operating losses in recent quarters and intends to use its remaining cash resources to develop plans and take proactive steps to grow revenue and enhance its operations as further explained in the preceding Liquidity and Capital Resources section.

The Company believes that the existing cash and cash equivalents will be sufficient to meet the Company's anticipated cash needs for at least the next 12 months from the date the financial statements are issued.

Debt

In March 2021, the Company issued $138.3 million aggregate principal amount of 2026 Notes in a private placement offering. The 2026 Notes bear interest at a rate of 2.25% per year payable semiannually in arrears on March 15 and September 15 of each year. Upon conversion, the 2026 Notes will be convertible into either cash, shares of the Company's common stock or a combination thereof, at the Company's election. The convertible notes are presented as convertible notes, net of unamortized debt issuance costs, on the condensed consolidated balance sheet. The aggregate proceeds from the offering were approximately $133.6 million, net of issuance costs, including initial purchaser fees.

In May 2022, the Company issued $240.0 million aggregate principal amount of 2028 Notes. A total of $230.0 million of aggregate principal amount of 2028 Notes was issued in a private placement offering and concurrently with this private placement, the Company entered into a purchase agreement with Voce Capital Management LLC, an entity affiliated with J. Daniel Plants, the Company's former Executive Chairperson, pursuant to which the Company issued to Voce $10.0 million aggregate principal amount of 2028 Notes on the same terms and conditions. The aggregate proceeds from the offering of 2028 Notes were approximately $232.4 million, net of issuance costs, including initial purchaser fees.

In December 2022, the Company issued $120.0 million aggregate principal amount of 2029 Notes in a private placement offering. The 2029 Notes bear interest at a rate of 4.00% per year payable semiannually in arrears on June 1 and December 1 of each year. Upon conversion, the 2029 Notes will be convertible into either cash, shares of the Company's common stock or a combination thereof, at the Company's election. The Convertible notes are presented as Convertible notes, net of unamortized debt issuance costs, on the consolidated balance sheet. The aggregate proceeds from the offering were approximately $115.8 million, net of issuance costs, including initial purchaser fees.

On July 9, 2020, the Company entered into a Loan and Security Agreement with Silicon Valley Bank for a four-year secured revolving loan facility ("SVB Revolving Line of Credit") in an aggregate principal amount of up to $30.0 million. See Note 14 – Debt in the accompanying notes to the Company's condensed consolidated financial statements for more information.

The Loan and Security Agreement with Silicon Valley Bank contains customary affirmative covenants, such as financial statement reporting requirements and delivery of borrowing base certificates, as well as customary covenants that restrict the Company's ability to, among other things, incur additional indebtedness, sell certain assets, guarantee obligations of third parties, declare dividends, or make certain distributions, and undergo a merger or consolidation or certain other transactions. The Loan and Security Agreement also contains certain financial condition covenants.

The Loan and Security Agreement has been amended since inception to permit the issuance of the Convertible Notes and related capped call transactions and to remove the quarterly minimum revenue requirement. On March 26, 2023, the FDIC announced that it had entered into a purchase and assumption agreement with First Citizens Bank & Trust Company under which all deposits of the former Silicon Valley Bank were assumed by First Citizens Bank & Trust Company. In addition, under the purchase and assumption agreement, First Citizens Bank & Trust Company assumed Silicon Valley Bank's obligations under the Company's Loan and Security Agreement.

The Company and First Citizens Bank & Trust Company agreed to amend the requirement for Cutera to maintain substantially all of its funds with First Citizens Bank & Trust Company and allowed up to 50% of the Company's funds to be invested with institutions other than First Citizens Bank & Trust Company.

As of September 30, 2023, the Company had not drawn on the SVB Revolving Line of Credit and the Company is in compliance with all financial covenants.

Commitments and Contingencies

As of the date of this report, there were no material changes to the Company's contractual obligations and commitments outside the ordinary course of business since April 7, 2023, the filing date of the Company's Annual Report on Form 10-K, as amended May 1, 2023.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

A summary of the key market risks facing the Company is disclosed below. For a detailed discussion, please see the Company's Annual Report on Form 10-K for the year ended December 31, 2022, filed with the SEC on April 7, 2023, as amended on May 1, 2023, and other announcements the Company makes from time to time.

The conditional conversion feature of the Company's convertible notes, if triggered, may adversely affect the Company's financial condition and operating results.

The Company has outstanding the 2.25% Convertible Senior Notes due 2026 (the "2026 Notes"), the 2.25% Convertible Senior Notes due 2028, and the 4.00% Convertible Senior Notes due 2029. During any fiscal quarter commencing after the fiscal quarter ending on June 30, 2021, in the case of the 2026 Notes, ending on September 30, 2022, in the case of the 2028 Notes, and ending on March 31, 2023, in the case of the 2029 Notes, if the last reported sale price of the common stock for at least 20 trading days (whether or not consecutive) during a period of 30 consecutive trading days ending on and including, the last trading day of the immediately preceding fiscal quarter is greater than or equal to 130% of conversion price for the applicable series of Convertible Notes on each applicable trading day then holders may convert their notes in the subsequent quarter. This condition was not met for any of the Company's Convertible Notes in the three months ended September 30, 2023. Upon any future conversion requests of the Convertible Notes, the Company would be required to pay or deliver, as the case may be, cash, shares of its common stock, or a combination of cash and shares of its common stock, at the Company's election with respect to such conversion requests.

Interest Rate and Market Risk

As of September 30, 2023, the Company had not drawn on the Original Revolving Line of Credit, as amended. Overall interest rate sensitivity is primarily influenced by any amount borrowed on the line of credit and the prevailing interest rate on the line of credit facility. The effective interest rate on the line of credit facility is based on a floating per annum rate equal to the Prime rate. The Prime rate was 8.5% as of September 30, 2023, and accordingly the Company may incur additional expenses if the Company has an outstanding balance on the line of credit and the Prime rate increases in future periods.

Inflation

The Company has experienced inflationary pressure on its business. If the Company's costs were to become subject to significant inflationary pressures, the Company may not be able to fully offset such higher costs through price increases. The Company's inability or failure to do so could harm the Company's business, financial condition, and results of operations.

Foreign Exchange Fluctuations

The Company generates revenue in Japanese Yen, Euros, Australian Dollars, Canadian Dollars, British Pounds, and Swiss Francs. Additionally, a portion of the Company's operating expenses, and assets and liabilities are denominated in each of these currencies. Therefore, fluctuations in these currencies against the U.S. dollar could materially and adversely affect the Company's results of operations upon translation of the Company's revenue denominated in these currencies, as well as the re-measurement of the Company's international subsidiaries' financial statements into U.S. dollars.

ITEM 4. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

The Company maintains disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended) that are designed to ensure that information required to be disclosed in the Company's Exchange Act reports is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms and that such information is accumulated and communicated to the Company's management, including the Company's principal executive officer and principal financial officer, as appropriate, to allow for timely decisions regarding required disclosure.

Management identified material weaknesses in the year ended December 31, 2022, over the Company's internal controls over financial reporting. These material weaknesses are related to information technology general controls ("ITGCs") including, segregation of duties, user access, and reports produced by certain IT systems that support the Company's financial reporting process including those related to the implementation of an ERP system; inventory controls related to the completeness, existence, and cut-off of inventories held at third parties, inventories held by sales personnel, and inventories in transit, and controls related to the calculation of adjustments to inventory for items considered excessive and obsolete; and the completeness and accuracy of expense for routine and non-routine equity-based awards. Additionally, in fiscal year 2023, and in conjunction with the restatements, management identified an additional material weakness. Specifically, the Company failed to design, maintain and monitor a risk assessment program at a sufficiently precise level and therefore failed to identify new and evolving risks related to accounting policies, procedures and related controls performed over areas including, but not limited to inventory, revenues and lease income, costs for leased devices, and testing of certain key reports used in controls. Consequently, the Company failed to timely implement new controls to respond to changes in the business and leadership. Although certain of these material weaknesses did not result in any material misstatement of the Company's consolidated financial statements for the periods presented, they could lead to a material misstatement of account balances or disclosures. Accordingly, management concluded that these deficiencies constitute material weaknesses.

As required by SEC Rule 13a-15(b), the Company carried out an evaluation, under the supervision and with the participation of the Company’s management, including the Company’s principal executive officer and principal financial officer, of the effectiveness of the design and operation of the Company’s disclosure controls and procedures as of the end of the period covered by this Quarterly Report on Form 10-Q. The Company’s Chief Executive Officer (“CEO”) and Interim Chief Financial Officer (“CFO”) concluded that the Company’s disclosure controls and procedures were not effective as of September 30, 2023, at the reasonable assurance level, because of the material weaknesses in internal controls, which were disclosed in the Company's Annual Report on Form 10-K for the year ended December 31, 2022 and the additional material weakness identified in fiscal year 2023. Notwithstanding these material weaknesses, the Company’s management, including the CEO and CFO, has concluded that the condensed consolidated financial statements, included in the Form 10-Q, for the three months ended September 30, 2023, fairly present, in all material respects, the Company's financial condition, results of operations and cash-flows for the periods presented in conformity with generally accepted accounting principles.

Remediation Plans

Management continues to review and make changes to the overall design of its internal control environment, including implementing additional internal controls over ITGCs, inventory, equity and its risk assessment program over areas including but not limited to inventory, revenues and lease income, costs for leased devices, and certain key reports used in controls. The Company has added internal and external resources to its finance function to enhance the effectiveness of internal controls over financial reporting. The material weakness will not be considered remediated until the applicable remedial controls operate for a sufficient period. The Company has made progress in the remediation efforts related to the material weaknesses but cannot estimate when these efforts will be completed.

The Company’s efforts include:

ITGC remediation actions:

- Developed a training program addressing ITGCs and policies, including educating control owners concerning the principles and requirements of each control, with a focus on those related to user access and change-management over IT systems impacting financial reporting;
- Developed enhanced risk assessment procedures and controls related to changes in IT systems; and
- Implemented an IT management review and testing plan to monitor ITGCs with focus on systems supporting the financial reporting processes.

Inventory control remediation actions:

- Evaluated the effectiveness of the current annual inventory count program and controls;
- Implemented a global inventory count policy and standard operating procedures to ensure consistent communication of the inventory count process and adherence to these policies at facilities managed by the Company and third-party logistics service providers;
- Provided training of standard operating procedures and internal controls to key stakeholders within the supply chain, logistics, and inventory process; and
- Enhanced existing management review controls related to inventory reconciliation, inventory in transit, inventories held by sales personnel, and key reports used in in the inventory count process. Evaluating the effectiveness of the current annual inventory count program and controls.

Equity-based awards expense calculation remediation actions:

- Enhanced current review controls around the calculation of stock-based compensation expense.

Risk assessment remediation actions:

- Engaged third-party professionals to evaluate the design and operating effectiveness of the Company's risk assessment process in relation to the timely identification and assessment of changes in the business and leadership; and
- Provided training of standard operating procedures and internal controls to key stakeholders.

The actions the Company is taking are subject to ongoing executive management review and are also subject to audit committee oversight. If the Company is unable to successfully remediate these material weaknesses, or if in the future, the Company identifies further material weaknesses in its internal control over financial reporting, the Company may not detect errors on a timely basis, and its condensed financial statements may be materially misstated.

Changes in Internal Control over Financial Reporting

Except for the material weakness identified in 2023 and the remediation measures in connection with the material weaknesses described above, there were no changes in the Company's internal control over financial reporting during the quarter ended September 30, 2023, that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

Limitations on the Effectiveness of Controls

A control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the control system are met. Because of inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues, if any, within a company have been detected. Accordingly, the Company’s disclosure controls and procedures are designed to provide reasonable, not absolute, assurance that the objectives of the Company’s disclosure control system are met.

PART II. OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

From time to time, the Company may be involved in legal and administrative proceedings and claims of various types. For a description of the Company's material pending legal and regulatory proceedings and settlements, see Note 11 to the Company's consolidated financial statements entitled "Commitments and Contingencies," in the Annual Report on Form 10-K for the year ended December 31, 2022, filed with the SEC on April 7, 2023, and Note 13 to the Company's condensed consolidated financial statements entitled "Contingencies", in this Quarterly Report on Form 10-Q for the three and nine months ended September 30, 2023.

ITEM 1A. RISK FACTORS

There are no material changes from the Risk Factors previously disclosed in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2022, filed with the SEC on April 7, 2023 (the "Annual Report"), as amended on May 1, 2023, as supplemented by the additional Risk Factors included in the Company's Amended Quarterly Report for the period ended March 31, 2023, filed with the SEC on March 5, 2024, and the Company's Amended Quarterly Report for the period ended June 30, 2023, filed with the SEC on March 5, 2024, other than as noted below:

The Company has identified an additional material weakness in its internal control over financial reporting related to the design, maintenance and monitoring of a risk assessment program related to new and evolving risks, which could, if not remediated, result in material misstatements in the Company's financial statements.

The Company is responsible for establishing and maintaining adequate internal control over financial reporting, as defined in Rule 13a-15(f) under the Securities Exchange Act. In addition to the material weaknesses disclosed in Item 9A of the Company's Annual Report on Form 10-K filed with the SEC on April 7, 2023, as amended on May 1, 2023, and in conjunction with the restatements, management identified an additional material weakness. Specifically, the Company failed to design, maintain and monitor a risk assessment program at a sufficiently precise level and therefore failed to identify new and evolving risks related to accounting policies, procedures and related controls performed over areas including, but not limited to inventory, revenues and lease income, costs for leased devices, and testing of certain key reports used in controls. Consequently, the Company failed to timely implement new controls to respond to changes in the business and leadership.

A material weakness is defined as a deficiency, or combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of the Company's annual or interim financial statements will not be prevented or detected on a timely basis. As a result of these material weaknesses, the Company concluded that its internal control over financial reporting was not effective based on criteria set forth by the Committee of Sponsoring Organization of the Treadway Commission in Internal Control-An Integrated Framework (2013).

The Company has begun the process of designing and implementing effective internal control measures to improve its internal control over financial reporting and remediate the new material weakness identified. If these remedial measures are insufficient to address the material weakness, or if additional material weaknesses or significant deficiencies in the Company's internal control over financial reporting are discovered or occur in the future, the Company's condensed consolidated financial statements may contain material misstatements, and the Company could be required to restate its financial results. Additionally, if the Company is unable to successfully remediate the material weakness and is unable to produce accurate and timely financial statements, its stock price may be adversely affected.

The Company may need to raise additional capital to fund its operations.

Based on the Company's current plans, the Company believes that its current cash and cash equivalents and anticipated cash flow from operations will be sufficient to meet its anticipated cash requirements for at least the next twelve months. If the Company's available cash resources and cash flow from operations are insufficient to satisfy its liquidity requirements including because of lower demand for its products or the realization of other risks described in its Annual Report, the Company may be required to raise additional capital through the issuances of additional equity or convertible debt securities, enter into a credit facility or another form of third-party funding or seek other debt financing.

The various ways the Company could raise additional capital carry potential risks. If the Company raises funds by issuing equity securities, dilution to its stockholders would result. If the Company raises funds by issuing debt securities, those debt securities would have rights, preferences and privileges senior to those of holders of the Company's common stock. The terms of debt securities issued or borrowings pursuant to a credit agreement could impose significant restrictions on the Company's operations and present the risk of default. If the Company raises funds through collaborations or licensing arrangements, the

Company may be required to relinquish significant rights to its technologies or products or grant licenses on terms that are not favorable to the Company.

If the Company is unable to obtain adequate financing or financing on terms satisfactory to the Company, if the Company requires it, the Company's ability to continue to pursue its business objectives and to respond to business opportunities, challenges, or unforeseen circumstances could be significantly limited, and could have a material adverse effect on the Company's business, financial condition, results of operations and prospects.

ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

None.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None.

ITEM 4. MINE SAFETY DISCLOSURES

None.

ITEM 5. OTHER INFORMATION

None.

ITEM 6. EXHIBITS

Exhibit No.	Description
3.2	Amended and Restated Certificate of Incorporation of the Registrant (filed as Exhibit 3.5 to its Quarterly Report on Form 10-Q filed on November 7, 2017 and incorporated herein by reference)
3.4	Amended and Restated Bylaws of the Registrant (filed as Exhibit 3.2 to its Annual Report on Form 10-K filed on April 7, 2023 and incorporated herein by reference).
4.1	Specimen Common Stock certificate of the Registrant (filed as Exhibit 4.1 to its Annual Report on Form 10-K filed on March 25, 2005 and incorporated herein by reference).
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 and Chief Financial Officer pursuant to 18 U.S.C Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101.sch	Inline XBRL Taxonomy Extension Schema Document
101.cal	Inline XBRL Taxonomy Extension Calculation Linkbase Document
101.def	Inline XBRL Taxonomy Extension Definition Linkbase Document
101.lab	Inline XBRL Taxonomy Extension Label Linkbase Document
101.pre	Inline XBRL Taxonomy Extension Presentation Linkbase Document
104	Cover Page Interactive Data File (formatted as inline XBRL and contained in Exhibit 101)

* Management contract or compensatory plan

SIGNATURE

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, in the city of Brisbane, State of California, on the 5th day of March, 2024.

CUTERA, INC.

/s/ Stuart Drummond

Stuart Drummond
Interim Chief Financial Officer

EXHIBIT 31.1

Certification of Chief Executive Officer
Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

I, Taylor Harris, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Cutera, Inc.;

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

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

4. The registrant's other certifying officer 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 its 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 its 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 its 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 first 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 its 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: March 5, 2024

/s/ Taylor Harris

Taylor Harris
Chief Executive Officer

EXHIBIT 31.2

Certification of Chief Financial Officer
Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

I, Stuart Drummond, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Cutera, Inc.:

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

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

4. The registrant's other certifying officer 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 its 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 annual report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under its 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 its 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 first 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

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

   (e) 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

   (f) 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: March 5, 2024

/s/ Stuart Drummond

Stuart Drummond
Interim Chief Financial Officer

Exhibit 32.1

CERTIFICATIONS OF CHIEF EXECUTIVE OFFICER
AND CHIEF FINANCIAL OFFICER
PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

I, Taylor Harris, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that

i. the accompanying Quarterly Report on Form 10-Q of the Company for the quarterly period ended September 30, 2023 (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. the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: March 5, 2024

/s/ Taylor Harris
Taylor Harris
Chief Executive Officer

I, Stuart Drummond, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that

i. the accompanying Quarterly Report on Form 10-Q of the Company for the quarterly period ended September 30, 2023 (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. the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: March 5, 2024

/s/ Stuart Drummond
Stuart Drummond
Interim Chief Financial Officer

This certification accompanies this Report pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and shall not be deemed filed by the Company for purposes of Section 18 of the Securities and Exchange Act of 1934, as amended.