

BROOKS AUTOMATION INC

Form 10-K

November 29, 2007

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

Form 10-K

(Mark One)

- ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES
EXCHANGE ACT OF 1934
For fiscal year ended September 30, 2007**
- 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: 0-25434

Brooks Automation, Inc.

(Exact name of Registrant as Specified in Its Charter)

Delaware

*(State or Other Jurisdiction of
Incorporation or Organization)*

04-3040660

*(I.R.S. Employer
Identification No.)*

15 Elizabeth Drive

Chelmsford, Massachusetts

(Address of Principal Executive Offices)

01824

(Zip Code)

978-262-2400

(Registrant's Telephone Number, Including Area Code)

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

None

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

**Common Stock, \$0.01 par value
Rights to Purchase Common Stock**

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

If this report is an annual or transition report, indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934. Yes No

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

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

Large accelerated filer Accelerated filer Non-accelerated filer

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

The aggregate market value of the registrant's Common Stock, \$0.01 par value, held by nonaffiliates of the registrant as of March 31, 2007, was approximately \$1,284,220,900 based on the closing price per share of \$17.15 on that date on the Nasdaq Stock Market. As of March 31, 2007, 75,786,372 shares of the registrant's Common Stock, \$0.01 par value, were outstanding. As of November 15, 2007, 70,859,004 shares of the registrant's Common Stock, \$0.01, par value, were outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the registrant's Proxy Statement involving the election of directors, which is expected to be filed within 120 days after the end of the registrant's fiscal year, are incorporated by reference in Part III of this Report.

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PART I

Item 1. *Business*

Brooks Automation, Inc. (Brooks , we , us , or our), a Delaware Corporation, is a leading supplier of technology products and solutions primarily serving the worldwide semiconductor market. We principally supply hardware and services to both original equipment manufacturers, or OEMs, who make semiconductor device manufacturing equipment, and chip manufacturers. We are a technology and market leader with offerings ranging from individual hardware modules to fully integrated systems as well as services to install and support our products worldwide.

Our company was founded in 1978 to develop and market automated substrate handling equipment for semiconductor manufacturing and became a publicly traded company in February 1995. Since that time, we have grown significantly from a niche supplier of wafer handling robot modules for vacuum-based processes into the largest merchant supplier of hardware automation products for the semiconductor industry in consecutive calendar years from 2001 through 2006. We were also the world's largest semiconductor wafer fabrication facility equipment (WFE) company in 2006, according to the independent market research firm Gartner, Inc.

Industry Background

In recent years the semiconductor industry has experienced significant growth in both the volume and complexity of integrated circuit devices being manufactured all around the world, particularly in Asia. This growth is being driven by the increasing demand for high performance electronic products that require semiconductors. The products include computers, telecommunications equipment, consumer electronics, data storage media and wireless communications devices.

The production of advanced semiconductor chips is an extremely complex and logistically challenging manufacturing activity. To create the tens of millions of microscopic transistors and connect them both horizontally and in vertical layers in order to produce a functioning integrated circuit, or IC chip, the silicon wafers must go through hundreds of process steps that require complex processing equipment, or tools, to create the integrated circuits. A large production fab may have more than 70 different types of process and metrology tools, totaling as many as 500 tools or more. Up to 40% of these tools perform processes in a vacuum, such as removing, depositing, or measuring material on wafer surfaces. Wafers can go through as many as 400 different process steps before fabrication is complete. These steps, which comprise the initial fabrication of the integrated circuit and are referred to in the industry as front-end processes, are repeated many times to create the desired pattern on the silicon wafer. As the complexity of semiconductors continues to increase, the number of process steps also increases, resulting in a greater need for automation due to the handling requirements and increased number of tools. This requirement for efficient, higher throughput and extremely clean semiconductor wafer fabs has created a substantial market for wafer handling automation (moving the wafers around and between tools) and tool automation (the use of robots and modules used in conjunction with and inside process tools that move wafers from station to station).

Wafer handling robotics have emerged as a critical technology in determining the efficacy and productivity of the complex tools which process 300mm wafers in the world's most advanced wafer fabs. A tool is built around a process chamber using automation technology provided by a company such as Brooks, to move wafers into and out of the chamber. Today, OEMs are building their tools using a cluster tools architecture, whereby several process chambers are mounted to one central frame that processes wafers. We specialize in developing and building the handling system technology used in these tools. Our products can be provided as an individual component or as a complete handling system. These products are provided to support both atmospheric and vacuum based processes.

In order to facilitate the handling and transportation of wafers into a process tool, an equipment front-end module, or EFEM, is utilized. An EFEM serves as an atmospheric interface for wafers being fabricated by tools that use either atmospheric or vacuum processes. We provide the products and technology to create the required vacuum as well as automate these processes. For vacuum-based processes, automation systems use

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vacuum robots to transfer wafers into the OEM's process modules. Our vacuum automation systems use vacuum robots to transfer wafers into the OEM's process modules. In addition, high vacuum pumps, which we also provide, are required in certain process steps to remove all potentially contaminating gases and impurities from the processing environment and to optimize that environment by maintaining pressure consistency of the known process gas. In achieving optimal production yields, semiconductor manufacturers must also ensure that each process operates at carefully controlled pressure levels. Impurities or incorrect pressure levels can lower production yields, thereby significantly increasing the cost per useable semiconductor chip produced. We provide various pressure measurement instruments that form part of this pressure control loop on production processing equipment. Some key vacuum processes include: dry etching and dry stripping; chemical vapor deposition, or CVD; physical vapor deposition, or PVD; and ion implantation.

Today, all new wafer fabrication facilities, or fabs, being constructed are designed to support the production of semiconductors on 300 millimeter (mm) wafers. The capital expenditure by a semiconductor company to create a modern 300mm fab can exceed \$3 billion and is well in excess of \$2 billion for a 200mm facility. While most 200mm fabs are only partially automated, virtually all 300mm fabs are fully automated. Automation hardware, software and services have grown from approximately \$50 million for a 200mm fab to over \$180 million for a 300mm facility. Typically 75% to 80% of the capital investment for a fab is for manufacturing equipment, while the remainder is dedicated to land, the physical building, the clean room production floor and automation, network and facilities infrastructure.

The served available market for semiconductor automation approximated \$2.0 billion in 2006, according to Gartner. Brooks concentrates on the tool automation portion of the broad automation market, which Gartner estimates to be approximately \$650 million in 2006. In addition, we continue to recognize the importance of establishing and maintaining a world-class customer service infrastructure that can address the majority of the global semiconductor industry's automation and tool up-time needs.

Current Trends

The demand for semiconductors and semiconductor manufacturing equipment is cyclical. Historically, this industry has experienced periodic expansions and contractions, which are commonly referred to as upturns and downturns. Globally, the semiconductor industry experienced a prolonged downturn from fiscal 2001 to the end of fiscal 2003. Industry economics improved significantly in fiscal 2004 and we were able to return to profitability for the period, benefiting from improved market demand and from cost reduction initiatives that we implemented during the downturn. Industry conditions weakened again during fiscal 2005 leading to a revenue and profitability decline for the period. During fiscal 2006 and continuing into fiscal 2007, Brooks again benefited from a cyclical upturn in demand for its products and services, which helped drive revenues and earnings to record levels. During the fourth quarter of fiscal 2007, the Company began to observe a slowdown in the demand for semiconductor capital equipment. It is difficult to accurately predict the length of such downturns, but the Company does not anticipate this downturn to be prolonged or as severe as downturns experienced over the course of its history. Still, we believe it is both reasonable and prudent to expect that the global semiconductor industry will experience market conditions that fluctuate unpredictably and at times, severely.

The majority of equipment automation is still addressed internally by engineering teams working inside customer OEMs, but the trend of outsourcing the procurement of automation technology and production systems has been gathering momentum since the late 1980's. This internal market is also referred to as the captive market. The trend of outsourcing has accelerated through the semiconductor industry's transition to cluster tools, which have increased the need for reliability and performance. Furthermore, the need for outsourcing automation has been driven by the need of our OEM customers to leverage their expertise in process technology, rather than mechanical technology. Since the early 2000's, many of the major OEMs have begun to look outside their captive capabilities to suppliers, like us, who

could provide them with fully integrated and tested systems. Accordingly, we believe that our primary opportunity comes from being able to provide reliable technology solutions to the larger semiconductor OEMs that currently satisfy their substrate handling needs through their captive supplier.

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The global semiconductor industry is experiencing a material shift in the fabrication of wafers from North American and European based facilities to wafer fabs and foundries located in Asia. In addition to this regional shift, the global semiconductor industry is one that is continuously focused on cost reduction. As such, companies that are a part of, or a supplier to, this industry are expected to support their customers' focus on reducing the costs of operating and maintaining their manufacturing network. In addition to innovative technology solutions that increase device yields at the wafer and wafer throughput per tool, we are aggressively looking to access markets and resources that enable us to leverage the benefits of lower cost materials and production facilities located in Asia.

Segments

In the fourth quarter of fiscal 2007 we made changes to our internal reporting structure and will now be reporting results in three segments: Automation Systems Group; Critical Components Group; and Global Customer Support Group.

Our Automation Systems Group segment provides a range of wafer handling products and systems that support both atmospheric and vacuum process technology used by our customers.

The Critical Components Group segment includes cryogenic vacuum pumping, thermal management and vacuum measurement solutions used to create, measure and control critical process vacuum applications. The pump, gauge and chiller products serve various markets that use vacuum as a critical enabler to overall system performance.

The Global Customer Support Group segment consists of our service organization, which provides an extensive range of support to our customers to address their on-site needs, consultation, or spare parts logistics, all of which enable the customer to maximize wafer fab utilization, process tool uptime and productivity.

Products

The Automation Systems Group provides automation products for vacuum and atmospheric equipment, as well as mini-environment products, calibration and alignment products and high-precision airflow controls primarily for the semiconductor industry and high performance electronics industries. These products include wafer transport robots and platforms sold to semiconductor equipment manufacturers, as well as products for lithography that automate storage, inspection and transport of photomasks or reticles sold directly to chip manufacturers. We offer hardware for process and metrology equipment as either modules or systems. The products sold as modules are discrete components such as robots, load ports, and aligners, while those products sold as systems are pre-integrated assemblies such as the cluster tool platform that may consist of a number of modules provided by us or other suppliers.

The Critical Components Group provides products and subsystems designed to create, measure and control vacuum technology solutions such as cryogenic pumps for creating vacuum, product for measuring vacuum, and thermal management products that are used in manufacturing equipment for the semiconductor, data storage and flat panel display industries.

The Global Customer Support Group provides customers worldwide with crucial and timely support of all our hardware offerings. We assist with the installation of hardware products, product training, consulting and sustaining on-site support. Our extensive range of global support and system monitoring services are designed to lower the total cost of ownership for our customers. The objective is to increase our customers' system uptime through rapid response to potential operating problems. We also develop and deliver enhancements to our customers' installed base of production tools through upgrades and other services. In addition, we maintain spare parts inventories in regional hubs to enable our personnel to serve our customers and to service our products more efficiently.

We continuously direct resources to introduce new generations of products and services to replace the current offerings. These products and services are the culmination of an extensive R&D program and extensive customer interactions over the past few years. New products and services are developed using a product life

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cycle management process designed to meet goals for performance, manufacturability, cost, reliability and support.

Customers

We sell our products and services to nearly every major semiconductor chip manufacturer and OEM in the world, including all of the top ten chip companies and nine of the top ten equipment companies. Our customers also include companies who are in the data storage and other high performance electronics industries. Additionally, certain Brooks products are sold to non-semiconductor customers producing imaging, coating, and analytic instruments. We have major customers in North America, Europe and Asia.

We expect international revenues to continue to represent a significant percentage of total revenues, as our industry is seeing an increasing business shift to Asia. See Note 16, *Segment and Geographic Information* of Notes to the Consolidated Financial Statements for further discussion of our sales by geographic region and revenue, income and assets by reportable segment. See Part I, Item 1A, *Risk Factors* for a discussion of the risks related to foreign operations.

Relatively few customers account for a substantial portion of our revenues, with the top 20 customers accounting for approximately 66% of our business in fiscal 2007. We have two customers, Applied Materials, Inc. and Lam Research Corporation, that each accounted for more than 10% of our overall revenues for the year.

Sales, Marketing and Customer Support

We market and sell our equipment in North America, Europe and Asia through our direct sales organization. The sales process for our products is often multilevel, involving a team comprised of individuals from sales, marketing, engineering, operations and senior management. In many cases a customer is assigned a team that engages the customer at different levels of its organization to facilitate planning, provide product customization when required, and to assure open communication and support.

Our marketing activities include participation in trade shows, delivery of seminars, participation in industry forums, distribution of sales literature, publication of press releases and articles in business and industry publications. To enhance communication and support, particularly with our international customers, we maintain sales and service centers in the North American, European, and Asian locations. These facilities, together with our headquarters, maintain local support capability and demonstration equipment for customers to evaluate. Customers are encouraged to discuss features and applications of our demonstration equipment with our engineers located at these facilities.

Competition

The semiconductor fab and process equipment manufacturing industries are highly competitive and characterized by continual changes and improvements in technology. The majority of equipment automation is still done in-house by OEMs. Our competitors among external vacuum automation suppliers are primarily Japanese companies such as Daihan, Daikin and Rorze. Also, contract manufacturing companies such as Sanmina, FoxSemicon and Flextronics are offering limited assembly and manufacturing services to the OEM companies. Our competitors among vacuum subsystems suppliers include Sumitomo Heavy Industries (SHI), Genesis, MKS Instruments and Inficon.

Atmospheric tool automation is outsourced to a larger degree and has a larger field of competitors due to the lower barriers to entry. We compete directly with other equipment automation suppliers of atmospheric modules and systems such as Asyst, Hirata, Kawasaki, Rorze, Sankyo, TDK and Shinko. Contract manufacturers are also providing assembly and manufacturing services for atmospheric systems.

We have a significant share of the market for vacuum cryogenic pumps and face few competitors. These competitors include SHI and Genesis. The vacuum measurement market for gauges is more fragmented with a variety of competitors that include MKS Instruments and Inficon.

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We believe our customers will purchase our equipment automation products and vacuum subsystems as long as we continue to provide the necessary throughput, reliability, contamination control and accuracy for their advanced processing tools at an acceptable price point. We believe that we have competitive offerings with respect to all of these factors; however, we cannot guarantee that we will be successful in selling our products to OEMs who currently satisfy their automation needs in-house or from other independent suppliers, regardless of the performance or price of our products.

In addressing the Asian markets, we may be at a competitive disadvantage to local suppliers. We are seeking to improve the positioning of our products and services through establishing stronger local capabilities, such as the Yaskawa Brooks Automation (YBA) joint venture in Japan and more material sourcing in China.

We believe that the competitive factors when selling hardware directly to the fabs are technical capabilities, reliability, price/performance, ease of integration and global sales and support resources. We believe that our solutions compete favorably with respect to all these factors.

Research and Development

Our research and development efforts are focused on developing new products and services as well as further enhancing the functionality, degree of integration, reliability and performance of our existing products. Our engineering, marketing, operations and management personnel have developed close collaborative relationships with many of their counterparts in customer organizations and have leveraged these relationships in such ways as to identify market demands and focus our research and development investment to meet those demands. With the rapid pace of change that characterizes semiconductor technology it is essential for us to provide high-performance and reliable products in order for us to maintain our leadership position.

Manufacturing

Our manufacturing operations are used for product assembly, integration and testing. We have adopted quality assurance procedures that include standard design practices, component selection procedures, vendor control procedures and comprehensive reliability testing and analysis to assure the performance of our products. Our major manufacturing facilities are located in Chelmsford, Massachusetts; Gresham, Oregon; Petaluma, California; and Longmont, Colorado. We have recently acquired a manufacturing site in Wuxi, China as part of the Company's longer term strategy to source products from lower cost Asian-based suppliers. The Wuxi facility will also conduct final assembly operations and the integration of products using sub-components being sourced from suppliers within lower cost Asian regions. Additionally, we manufacture certain sub-components for our vacuum products utilizing a third party maquiladora in Monterrey, Mexico.

We utilize a just-in-time manufacturing strategy, based on the concepts of demand flow technology, for a large portion of our manufacturing process. We believe that this strategy coupled with the outsourcing of non-critical components such as machined parts, wire harnesses and PC boards reduces our fixed operating costs, improves our working capital efficiency, reduces our manufacturing cycle times and improves our flexibility to rapidly adjust production capacities. While we often use single source suppliers for certain key components and common assemblies to achieve quality control and the benefits of economies of scale, we believe that these parts and materials are readily available from other supply sources. We will continue to broaden the sourcing of our components to low cost regions, more specifically Asia.

Patents and Proprietary Rights

We rely upon patents, trade secret laws, confidentiality procedures, copyrights, trademarks and licensing agreements to protect our technology. Due to the rapid technological change that characterizes the semiconductor and flat panel display process equipment industries, we believe that the improvement of existing technology, reliance upon trade secrets and unpatented proprietary know-how and the development of new products may be as important as patent protection in establishing and maintaining competitive advantage. To protect trade secrets and know-how, it is our policy to require all technical and management personnel to enter into nondisclosure agreements. We cannot guarantee that these efforts will meaningfully protect our trade secrets.

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We have obtained patents and will continue to make efforts to obtain patents, when available, in connection with our product development program. We cannot guarantee that any patent obtained will provide protection or be of commercial benefit to us. Despite these efforts, others may independently develop substantially equivalent proprietary information and techniques. As of September 30, 2007, we have obtained 375 United States patents and had 124 United States patent applications pending on our behalf. In addition, we have obtained 460 foreign patents and had 449 foreign patent applications pending on our behalf. Our United States patents expire at various times through April 2023. We cannot guarantee that our pending patent applications or any future applications will be approved, or that any patents will not be challenged by third parties. Others may have filed and in the future may file patent applications that are similar or identical to ours. These patent applications may have priority over patent applications filed by us.

We have successfully licensed our FOUP (front-opening unified pod) load port technology to several companies and continue to pursue the licensing of this technology to more companies that we believe are utilizing our intellectual property.

There has been substantial litigation regarding patent and other intellectual property rights in the semiconductor and related industries. We have in the past been, and may in the future be, notified that we may be infringing intellectual property rights possessed by other third parties. We cannot guarantee that infringement claims by third parties or other claims for indemnification by customers or end users of our products resulting from infringement claims will not be asserted in the future or that such assertions, if proven to be true, will not materially and adversely affect our business, financial condition and results of operations. If any such claims are asserted against our intellectual property rights, we may seek to enter into a royalty or licensing arrangement. We cannot guarantee, however, that a license will be available on reasonable terms or at all. We could decide in the alternative to resort to litigation to challenge such claims or to attempt to design around the patented technology. Litigation or an attempted design around could be costly and would divert our management's attention and resources. In addition, if we do not prevail in such litigation or succeed in an attempted design around, we could be forced to pay significant damages or amounts in settlement. Even if a design around is effective, the functional value of the product in question could be greatly diminished.

We acquired certain assets, including a transport system known as IridNet, from the Infab division of Jenoptik AG on September 30, 1999. Asyst Technologies, Inc. had previously filed suit against Jenoptik AG and other defendants, or collectively, the defendants, in the Northern District of California charging that products of the defendants, including IridNet, infringe Asyst's U.S. Patent Nos. 4,974,166, or the 166 patent, and 5,097,421, or the 421 patent. Asyst later withdrew its claims related to the 166 patent from the case. Summary judgment of noninfringement was granted in that case by the District Court and judgment was issued in favor of Jenoptik on the ground that the product at issue did not infringe the asserted claims of the 421 patent. Following certain rulings and findings adverse to Jenoptik, on August 3, 2007 the District Court issued final judgment in favor of Jenoptik. In November 2007, Asyst filed a notice of appeal appealing the District Court's latest decision.

We had received notice that Asyst might amend its complaint in this Jenoptik litigation to name Brooks as an additional defendant, but no such action was ever taken. Based on our investigation of Asyst's allegations, we do not believe we are infringing any claims of Asyst's patents. Asyst may decide to seek to prohibit us from developing, marketing and using the IridNet product without a license. We cannot guarantee that a license would be available to us on reasonable terms, if at all. In any case, we could face litigation with Asyst. Jenoptik has agreed to indemnify us for any loss we may incur in this action.

Backlog

Backlog for our products as of September 30, 2007, totaled \$111.2 million as compared to \$152.5 million at September 30, 2006. Backlog consists of purchase orders for which a customer has scheduled delivery within the next 12 months. Backlog consists of orders principally for hardware and service agreements. Orders included in the

backlog may be cancelled or rescheduled by customers without significant penalty. Backlog as of any particular date should not be relied upon as indicative of our revenues for any future period. A

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substantial percentage of current business generates no backlog because we deliver our products and services in the same period in which the order is received.

Recent Developments

On March 30, 2007, we completed the sale of our software division, Brooks Software, to Applied Materials, Inc., a Delaware corporation (Applied) for cash consideration and the assumption of certain liabilities related to Brooks Software. Brooks Software provided real-time applications for greater efficiency and productivity in collaborative, complex manufacturing environments. We transferred to Applied substantially all of its assets primarily related to Brooks Software, including the stock of several subsidiaries engaged only in the business of Brooks Software, and Applied assumed certain liabilities related to Brooks Software.

The sale was consummated pursuant to the terms of an Asset Purchase Agreement dated as of November 3, 2006 by and between the Company and Applied. Applied is among our largest customers for tool automation products. Following a bidding process in which multiple possible purchasers participated, the purchase price for Brooks Software was determined by arm s-length negotiations between the Company and Applied. We sold our software division in order to focus on our core semiconductor-related hardware businesses. We recognized a gain on disposal of the software division.

Effective October 1, 2006, our consolidated financial statements and notes have been reclassified to reflect this business as a discontinued operation in accordance with SFAS No. 144, Accounting for the Impairment or Disposal of Long-Lived Assets.

Employees

At September 30, 2007, we had approximately 1,900 full time employees. In addition, the Company utilized 300 part time employees and contractors. We believe our future success will depend in larger part on our ability to attract and retain highly skilled employees. Approximately 120 employees in our Jena, German facility are covered by a collective bargaining agreement. We consider our relationships with these and all employees to be good.

Available Information

Our internet website address is <http://www.brooks.com>. Through our website, we make available, free of charge, our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and any amendments to those reports, as soon as reasonably practicable after such materials are electronically filed, or furnished to, the Securities & Exchange Commission (SEC). These SEC reports can be accessed through the investor relations section of our website. The information found on our website is not part of this or any other report we file with or furnish to the SEC.

Gartner Information

Information contained in this annual report on Form 10-K attributable to Gartner, Inc. as reflected in its 2006 Semiconductor Manufacturing Equipment Market Share Analysis published in April 2007 represents Gartner s estimates and we make no representation as to the accuracy or completeness of the information they provide.

Item 1A. Risk Factors

Factors That May Affect Future Results

You should carefully consider the risks described below and the other information in this report before deciding to invest in shares of our common stock. These are the risks and uncertainties we believe are most important for you to consider. Additional risks and uncertainties not presently known to us, which we currently deem immaterial or which are similar to those faced by other companies in our industry or business in general, may also impair our business operations. If any of the following risks or uncertainties actually occurs, our

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business, financial condition and operating results would likely suffer. In that event, the market price of our common stock could decline and you could lose all or part of your investment.

Risks Relating to Our Industry

Due in part to the cyclical nature of the semiconductor manufacturing industry and related industries, we have recently incurred operating losses and may have future losses.

Our business is largely dependent on capital expenditures in the semiconductor manufacturing industry and other businesses employing similar manufacturing technology. The semiconductor manufacturing industry in turn depends on current and anticipated demand for integrated circuits and the products that use them. In recent years, these businesses have experienced unpredictable and volatile business cycles due in large part to rapid changes in demand and manufacturing capacity for semiconductors, and these cycles have had a negative impact on our business, sometimes causing declining revenues and operation losses. We could continue to experience future operating losses during an industry downturn and any period of uncertain demand. If an industry downturn continues for an extended period of time, our business could be materially harmed. Conversely, if demand improves rapidly, we could have insufficient inventory and manufacturing capacity to meet our customer needs on a timely basis, which could result in the loss of customers and various other expenses that could reduce gross margins and profitability.

We face substantial competition which may lead to price pressure and otherwise adversely affect our sales.

We face substantial competition throughout the world in each of our product areas. Our primary competitors are Asyst, Genesis, Inficon, Kawasaki, MKS Instruments, Rorze, Sankyo, SHI, Shinko and TDK and other smaller, regional companies. We also endeavor to sell products to OEM manufacturers, such as Applied Materials, Novellus, KLA-Tencor and TEL, that also satisfy their semiconductor and flat panel display handling needs internally rather than by purchasing systems or modules from a supplier like us. Some of our competitors have substantially greater financial resources and more extensive engineering, manufacturing, marketing and customer support capabilities than we do. We expect our competitors to continue to improve the performance of their current products and to introduce new products and technologies that could adversely affect sales of our current and future products and services. New products and technologies developed by our competitors or more efficient production of their products could require us to make significant price reductions to avoid losing orders. If we fail to respond adequately to pricing pressures or fail to develop products with improved performance or developments with respect to the other factors on which we compete, we could lose customers or orders. If we are unable to compete effectively, our business and prospects could be materially harmed.

Risks Relating to Brooks

Our operating results could fluctuate significantly, which could negatively impact our business.

Our revenues, operating margins and other operating results could fluctuate significantly from quarter to quarter depending upon a variety of factors, including:

demand for our products as a result of the cyclical nature of the semiconductor manufacturing industry and the markets upon which it depends or otherwise;

changes in the timing and terms of product orders by our customers as a result of our customer concentration or otherwise;

changes in the mix of products and services that we offer;

timing and market acceptance of our new product introductions;

delays or problems in the planned introduction of new products, or in the performance of any such products following delivery to customers;

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our competitors' announcements of new products, services or technological innovations, which can, among other things, render our products less competitive due to the rapid technological change in our industry;

the timing and related costs of any acquisitions, divestitures or other strategic transactions;

our ability to reduce our costs in response to decreased demand for our products and services;

disruptions in our manufacturing process or in the supply of components to us;

write-offs for excess or obsolete inventory; and

competitive pricing pressures.

As a result of these risks, we believe that quarter to quarter comparisons of our revenue and operating results may not be meaningful, and that these comparisons may not be an accurate indicator of our future performance.

Delays and technical difficulties in our products and operations may result in lost revenue, lost profit, delayed or limited market acceptance or product liability claims.

As the technology in our systems and manufacturing operations has become more complex and customized, it has become increasingly difficult to design and integrate these technologies into our newly-introduced systems, procure adequate supplies of specialized components, train technical and manufacturing personnel and make timely transitions to volume manufacturing. Due to the complexity of our manufacturing processes, we have on occasion failed to meet our customers' delivery or performance criteria, and as a result we have deferred revenue recognition, incurred late delivery penalties and had higher warranty and service costs. We may experience these problems again in the future. We may be unable to recover expenses we incur due to changes or cancellations of customized orders. There are also substantial unanticipated costs associated with ensuring that new products function properly and reliably in the early stages of their life cycle. These costs have been and could in the future be greater than expected as a result of these complexities. Our failure to control these costs could materially harm our business and profitability.

Because many of our customers use our products for business-critical applications, any errors, defects or other performance or technical problems could result in financial or other damage to our customers and could significantly impair their operations. Our customers could seek to recover damages from us for losses related to any of these issues. A product liability claim brought against us, even if not successful, would likely be time-consuming and costly to defend and could adversely affect our marketing efforts.

If we do not continue to introduce new products and services that reflect advances in technology in a timely and effective manner, our products and services will become obsolete and our operating results will suffer.

Our success is dependent on our ability to respond to the rapid rate of technological change present in the semiconductor manufacturing industry. The success of our product development and introduction depends on our ability to:

accurately identify and define new market opportunities and products;

obtain market acceptance of our products;

timely innovate, develop and commercialize new technologies and applications;

adjust to changing market conditions;

differentiate our offerings from our competitors' offerings;

obtain intellectual property rights;

continue to develop a comprehensive, integrated product and service strategy;

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properly price our products and services; and

design our products to high standards of manufacturability such that they meet customer requirements.

If we cannot succeed in responding in a timely manner to technological and/or market changes or if the new products that we introduce do not achieve market acceptance, we could lose our competitive position which could materially harm our business and our prospects.

The global nature of our business exposes us to multiple risks.

For the fiscal year ended September 30, 2007, approximately 33% of our revenues were derived from sales outside North America, while approximately 37% of our revenues in fiscal 2006 were derived from sales outside North America. We expect that international sales, including increased sales in Asia, will continue to account for a significant portion of our revenues. As a result of our international operations, we are exposed to many risks and uncertainties, including:

difficulties in staffing, managing and supporting operations in multiple countries;

longer sales-cycles and time to collection;

tariff and international trade barriers;

fewer legal protections for intellectual property and contract rights abroad;

different and changing legal and regulatory requirements in the jurisdictions in which we operate;

government currency control and restrictions on repatriation of earnings;

fluctuations in foreign currency exchange and interest rates; and

political and economic changes, hostilities and other disruptions in regions where we operate.

Negative developments in any of these areas in one or more countries could result in a reduction in demand for our products, the cancellation or delay of orders already placed, threats to our intellectual property, difficulty in collecting receivables, and a higher cost of doing business, any of which could materially harm our business and profitability.

Our business could be materially harmed if we fail to adequately integrate the operations of the businesses that we have acquired or may acquire.

We have made in the past, and may make in the future, acquisitions or significant investments in businesses with complementary products, services and/or technologies. Our acquisitions present numerous risks, including:

difficulties in integrating the operations, technologies, products and personnel of the acquired companies and realizing the anticipated synergies of the combined businesses;

defining and executing a comprehensive product strategy;

managing the risks of entering markets or types of businesses in which we have limited or no direct experience;

the potential loss of key employees, customers and strategic partners of ours or of acquired companies;

unanticipated problems or latent liabilities, such as problems with the quality of the installed base of the target company's products or infringement of another Company's intellectual property by a target Company's activities or products;

problems associated with compliance with the target company's existing contracts;

difficulties in managing geographically dispersed operations; and

the diversion of management's attention from normal daily operations of the business.

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If we acquire a new business, we may be required to expend significant funds, incur additional debt or issue additional securities, which may negatively affect our operations and be dilutive to our stockholders. In periods following an acquisition, we will be required to evaluate goodwill and acquisition-related intangible assets for impairment. When such assets are found to be impaired, they will be written down to estimated fair value, with a charge against earnings. The failure to adequately address these risks could materially harm our business and financial results.

The divestiture of the Brooks Software Division could adversely affect our business or our financial results.

On March 30, 2007, we sold the assets of the Brooks Software Division (the Division) to Applied Materials, Inc. The sale of the Division could have an adverse effect on our relationship with customers to whom we have sold both hardware and software products, and the loss of the revenue associated with the Division and the associated profits could adversely affect both our financial results and our ability to diminish the impact on our business of the cyclical nature of the semiconductor manufacturing industry.

Failure to retain key personnel could impair our ability to execute our business strategy.

The continuing service of our executive officers and essential engineering, technical and management personnel, together with our ability to attract and retain such personnel, is an important factor in our continuing ability to execute our strategy. There is substantial competition to attract such employees and the loss of any such key employees could have a material adverse effect on our business and operating results. The same could be true if we were to experience a high turnover rate among engineering and technical personnel and we were unable to replace them.

We face risks related to the restatement of our financial statements and the pending SEC and US Attorney investigations regarding our past practices with respect to equity incentives.

On May 12, 2006, Brooks announced that Brooks had received notice that the Boston Office of the United States Securities and Exchange Commission (the SEC) was conducting an informal inquiry concerning stock option grant practices to determine whether violations of the securities laws had occurred. On June 2, 2006, the SEC issued a voluntary request for information in connection with an informal inquiry by that office regarding a loan Brooks previously reported had been made to former Chairman and CEO Robert Therrien in connection with the exercise by him of stock options in 1999. On June 23, 2006, the SEC informed Brooks that it had opened a formal investigation into this matter and on the general topic of the timing of stock option grants. On June 28, 2006, the SEC issued subpoenas to Brooks and to the Special Committee of the Board of Directors, which had previously been formed on March 8, 2006, requesting documents related to our stock option grant practices and to the loan to Mr. Therrien.

On May 19, 2006, Brooks received a grand jury subpoena from the United States Attorney (the DOJ) for the Eastern District of New York requesting documents relating to stock option grants. Responsibility for the DOJ's investigation was subsequently assumed by the United States Attorney for the District of Massachusetts. On June 22, 2006 the United States Attorney's Office for the District of Massachusetts issued a grand jury subpoena to Brooks in connection with an investigation by that office into the timing of stock option grants by Brooks and the loan to Mr. Therrien mentioned above. On May 9, 2007, Brooks received a follow-up grand jury subpoena from the United States Attorney's Office for the District of Massachusetts in connection with the same matters.

On July 25, 2007, a criminal indictment was filed in the United States District Court for the District of Massachusetts charging Robert J. Therrien, the former Chief Executive Officer and Chairman of the Company, with income tax evasion. A separate civil complaint was filed by the Securities and Exchange Commission on July 25, 2007 against Mr. Therrien in the United States District Court for the District of Massachusetts charging him with violations of federal securities laws.

We have been cooperating fully with both the Securities and Exchange Commission and the United States Attorney's Office for the District of Massachusetts since the outset of their respective investigations. We intend

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to continue to cooperate with both of these agencies. We were not charged in either the SEC complaint or the indictment. The United States Attorney's Office has informed us that it has closed this matter as it relates to Brooks. The SEC's investigation is continuing, and we continue to cooperate fully with the SEC in this matter.

We face litigation risks relating to our past practices with respect to equity incentives that could have a material adverse effect on the Company.

Several lawsuits, including both putative securities class actions and shareholder derivative actions, have been filed against us, our directors and officers and certain of our former directors and officers relating to our past practices with respect to equity incentives. *See* Part I, Item 3, Legal Proceedings for a more detailed description of these proceedings. We are and may in the future be subject to other litigation arising in the normal course of our business. These actions are in the preliminary stages, and their ultimate outcome may have a material adverse effect on our business, financial condition and results of operations. Litigation may be time-consuming, expensive and disruptive to normal business operations, and the outcome of litigation is difficult to predict. The defense of these lawsuits will result in significant expense and the continued diversion of our management's time and attention from the operation of our business, which could impede our ability to achieve our business objectives. Some or all of the amount we may be required to pay to satisfy a judgment or settlement of any or all of these claims may not be covered by insurance.

Under indemnification agreements we have entered into with our officers and directors, we are required to indemnify them, and advance expenses to them, in connection with their participation in proceedings arising out of their service to us. These payments may be material, in particular since one of these individuals has been charged in connection with the United States Attorney's investigation into our past practices with respect to equity incentives.

Risks Relating to Our Customers

Because we rely on a limited number of customers for a large portion of our revenues, the loss of one or more of these customers could materially harm our business.

We receive a significant portion of our revenues in each fiscal period from a relatively limited number of customers, and that trend is likely to continue. Sales to our ten largest customers accounted for approximately 54%, 50% and 38% of our total revenues in the fiscal years ended September 30, 2007, 2006 and 2005, respectively. As the semiconductor manufacturing industry continues to consolidate and further shifts to foundries which manufacture semiconductors designed by others, the number of our potential customers could decrease, which would increase our dependence on our limited number of customers. The loss of one or more of these major customers or a decrease in orders from one of these customers could materially affect our revenue, business and reputation.

Because of the lengthy sales cycles of many of our products, we may incur significant expenses before we generate any revenues related to those products.

Our customers may need several months to test and evaluate our products. This increases the possibility that a customer may decide to cancel or change plans, which could reduce or eliminate our sales to that customer. The impact of this risk can be magnified during the periods in which we introduce a number of new products, as has been the case during fiscal 2006 and 2007. As a result of this lengthy sales cycle, we may incur significant research and development expenses, and selling, general and administrative expenses before we generate the related revenues for these products, and we may never generate the anticipated revenues if our customer cancels or changes its plans.

In addition, many of our products will not be sold directly to the end-user but will be components of other products. As a result, we rely on OEMs of our products to select our products from among alternative offerings to be incorporated into their equipment at the design stage; so-called design-ins. The OEM's decisions often precede the

generation of volume sales, if any, by a year or more. Moreover, if we are unable to achieve these design-ins from OEMs, we would have difficulty selling our products to that OEM because changing suppliers involves significant cost, time, effort and risk on the part of that OEM.

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Customers generally do not make long term commitments to purchase our products and our customers may cease purchasing our products at any time.

Sales of our products are often made pursuant to individual purchase orders and not under long-term commitments and contracts. Our customers frequently do not provide any assurance of minimum or future sales and are not prohibited from purchasing products from our competitors at any time. Accordingly, we are exposed to competitive pricing pressures on each order. Our customers also engage in the practice of purchasing products from more than one manufacturer to avoid dependence on sole-source suppliers for certain of their needs. The existence of these practices makes it more difficult for us to increase price, gain new customers and win repeat business from existing customers.

Other Risks

We may be subject to claims of infringement of third-party intellectual property rights, or demands that we license third-party technology, which could result in significant expense and prevent us from using our technology.

We rely upon patents, trade secret laws, confidentiality procedures, copyrights, trademarks and licensing agreements to protect our technology. Due to the rapid technological change that characterizes the semiconductor- and flat panel display process equipment industries, we believe that the improvement of existing technology, reliance upon trade secrets and unpatented proprietary know-how and the development of new products may be as important as patent protection in establishing and maintaining competitive advantage. To protect trade secrets and know-how, it is our policy to require all technical and management personnel to enter into nondisclosure agreements. We cannot guarantee that these efforts will meaningfully protect our trade secrets.

There has been substantial litigation regarding patent and other intellectual property rights in the semiconductor related industries. We have in the past been, and may in the future be, notified that we may be infringing intellectual property rights possessed by other third parties. We cannot guarantee that infringement claims by third parties or other claims for indemnification by customers or end users of our products resulting from infringement claims will not be asserted in the future or that such assertions, if proven to be true, will not materially and adversely affect our business, financial condition and results of operations.

Particular elements of our technology could be found to infringe on the intellectual property rights or patents of others. Other companies may hold or obtain patents on inventions or otherwise claim proprietary rights to technology necessary to our business. For example, twice in 1992 and once in 1994 we received notice from General Signal Corporation that it believed that certain of our tool automation products infringed General Signal's patent rights. We believe the matters identified in the notice from General Signal were also the subject of a dispute between General Signal and Applied Materials, Inc., which was settled in November 1997. There are also claims that have been made by Asyst Technologies Inc. that certain products we acquired through acquisition embody intellectual property owned by Asyst. To date no action has been instituted against us directly by General Signal, Applied Materials or Asyst.

We cannot predict the extent to which we might be required to seek licenses or alter our products so that they no longer infringe the rights of others. We also cannot guarantee that licenses will be available or the terms of any licenses we may be required to obtain will be reasonable. Similarly, changing our products or processes to avoid infringing the rights of others may be costly or impractical and could detract from the value of our products. If a judgment of infringement were obtained against us, we could be required to pay substantial damages and a court could issue an order preventing us from selling one or more of our products. Further the cost and diversion of management attention brought about by such litigation could be substantial, even if we were to prevail. Any of these events could result in significant expense to us and may materially harm our business and our prospects.

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Our failure to protect our intellectual property could adversely affect our future operations.

Our ability to compete is significantly affected by our ability to protect our intellectual property. Existing trade secret, trademark and copyright laws offer only limited protection, and certain of our patents could be invalidated or circumvented. In addition, the laws of some countries in which our products are or may be developed, manufactured or sold may not fully protect our products. We cannot guarantee that the steps we have taken to protect our intellectual property will be adequate to prevent the misappropriation of our technology. Other companies could independently develop similar or superior technology without violating our intellectual property rights. In the future, it may be necessary to engage in litigation or like activities to enforce our intellectual property rights, to protect our trade secrets or to determine the validity and scope of proprietary rights of others, including our customers. This could require us to incur significant expenses and to divert the efforts and attention of our management and technical personnel from our business operations.

If the site of the majority of our manufacturing operations were to experience a significant disruption in operations, our business could be materially harmed.

Most of our manufacturing facilities are concentrated in one location. If the operations of these facilities were disrupted as a result of a natural disaster, fire, power or other utility outage, work stoppage or other similar event, our business could be seriously harmed because we may be unable to manufacture and ship products and parts to our customers in a timely fashion.

Our business could be materially harmed if one or more key suppliers fail to deliver key components.

We currently obtain many of our key components on an as-needed, purchase order basis from numerous suppliers. Further, we are increasing our sourcing of products in Asia, and particularly in China, and we do not have a previous course of dealing with many of these suppliers. We do not generally have long-term supply contracts with any of these suppliers, and many of them have undertaken cost-containment measures in light of the recent downturn in the semiconductor industry. In the event of an industry upturn, these suppliers could face significant challenges in delivering components on a timely basis. Our inability to obtain components in required quantities or of acceptable quality could result in delays or reductions in product shipments to our customers. In addition, if a supplier or sub-supplier alters their manufacturing processes and suffers a production stoppage for any reason or modifies or discontinues their products, this could result in a delay or reduction in product shipments to our customers. Any of the contingencies could cause us to lose customers, result in delayed or lost revenue and otherwise materially harm our business.

We are exposed to potential risks and we will continue to incur increased costs as a result of the internal control testing and evaluation process mandated by Section 404 of the Sarbanes-Oxley Act of 2002.

We assessed the effectiveness of our internal control over financial reporting as of September 30, 2007 and assessed all deficiencies on both an individual basis and in combination to determine if, when aggregated, they constitute more than a significant deficiency. As a result of this evaluation, no material weaknesses were identified. Although we have completed the documentation and testing of the effectiveness of our internal control over financial reporting for fiscal 2007, as required by Section 404 of the Sarbanes-Oxley Act of 2002, we expect to continue to incur costs in order to maintain compliance with that section of the Sarbanes-Oxley Act. We continue to monitor controls on an ongoing basis in fiscal 2008 for any deficiencies. No evaluation can provide complete assurance that our internal controls will detect or uncover all failures of persons within our company to disclose material information otherwise required to be reported. The effectiveness of our controls and procedures could also be limited by simple errors or faulty judgments. In addition, if we continue to expand globally, the challenges involved in implementing appropriate internal controls will increase and will require that we continue to improve our internal controls.

In the future, if we fail to complete the Sarbanes-Oxley 404 evaluation in a timely manner, we could be subject to regulatory scrutiny and a loss of public confidence in our internal controls. In addition, any failure to implement required new or improved controls, or difficulties encountered in their implementation, could harm our operating results or cause us to fail to meet our reporting obligations.

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Recently completed and future acquisitions of companies, some of which may have operations outside the United States, may provide us with challenges in implementing the required processes, procedures and controls in our acquired operations. Acquired companies may not have disclosure controls and procedures or internal control over financial reporting that are as thorough or effective as those required by securities laws in the United States. Although we intend to devote substantial time and incur substantial costs, as necessary, to ensure ongoing compliance, we cannot be certain that we will be successful in complying with Section 404.

Our stock price is volatile.

The market price of our common stock has fluctuated widely. From the beginning of fiscal year 2006 through the end of fiscal year 2007, our stock price fluctuated between a high of \$19.96 per share and a low of \$10.61 per share. Consequently, the current market price of our common stock may not be indicative of future market prices, and we may be unable to sustain or increase the value of an investment in our common stock. Factors affecting our stock price may include:

- variations in operating results from quarter to quarter;
- changes in earnings estimates by analysts or our failure to meet analysts' expectations;
- changes in the market price per share of our public company customers;
- market conditions in the semiconductor industry or the industries upon which it depends;
- general economic conditions;
- political changes, hostilities or natural disasters such as hurricanes and floods;
- low trading volume of our common stock; and
- the number of firms making a market in our common stock.

In addition, the stock market has recently experienced significant price and volume fluctuations. These fluctuations have particularly affected the market prices of the securities of high technology companies like ours. These market fluctuations could adversely affect the market price of our common stock.

Provisions in our organizational documents and contracts may make it difficult for someone to acquire control of us.

Our certificate of incorporation, bylaws and contracts contain provisions that would make more difficult an acquisition of control of us and could limit the price that investors might be willing to pay for our securities, including:

- a prohibition on stockholder action by written consent;
- the elimination of the right of stockholders to call a special meeting of stockholders;
- a requirement that stockholders provide advance notice of any stockholder nominations of directors to be considered at any meeting of stockholders; and

a requirement that the affirmative vote of at least 80 percent of our shares be obtained for certain actions requiring the vote of our stockholders.

Item 1B. *Unresolved Staff Comments*

We have not received written comments from the Securities and Exchange Commission regarding our periodic or current reports under the Securities Exchange Act of 1934, as amended, that were received 180 days or more before September 30, 2007 and remain unresolved.

Table of Contents**Item 2. *Properties***

Our corporate headquarters and primary manufacturing/research and development facilities are currently located in three buildings in Chelmsford, Massachusetts, which we purchased in January 2001. We have a lease on a fourth building in Chelmsford adjacent to the three that we own. In summary, we maintain the following active facilities:

| Location | Functions | Square Footage (Approx.) | Ownership Status/Lease Expiration |
|---------------------------|---|---------------------------------|--|
| Chelmsford, Massachusetts | Corporate headquarters, training, manufacturing and R&D | 293,800 | Owned |
| Chelmsford, Massachusetts | Manufacturing, training and warehouse | 95,000 | October 2014 |
| Gresham, Oregon | Manufacturing and R&D | 176,900 | December 2010 |
| Wuxi, China | Manufacturing | 103,300 | Two leases with terms that end through August 2010 |
| Petaluma, California | Manufacturing and R&D | 72,300 | September 2011 |
| Kiheung, South Korea | Manufacturing, R&D and sales & support | 63,000 | November 2015 |
| Longmont, Colorado | Manufacturing and R&D | 60,900 | February 2015 |
| San Jose, California | Sales & support | 55,600 | January 2010 |
| Jena, Germany | R&D, sales & support | 31,300 | Several leases with terms that end through July 2009 |

Our Automation Systems Group segment utilizes the facilities in Massachusetts, California, Oregon and South Korea. Our Critical Components Group segment utilizes the facilities in Massachusetts, California and Colorado. Our Global Customer Support Group segment utilizes the facilities in Massachusetts, Germany, California, and South Korea. Our manufacturing facility in China is a shared facility that is utilized by all our segments.

We maintain additional sales & support and training offices in Texas and overseas in Europe (France, Germany and UK), as well as in Asia (Japan, China, Malaysia, Singapore and Taiwan) and the Middle East (Israel).

We currently sublease a total of 180,900 square feet of space previously exited as a result of our various restructuring activities. Another 122,300 of square feet of mixed office and manufacturing/research and development space located in Massachusetts is not in use and unoccupied at this time. We are actively exploring options to sublease, sell or negotiate an early termination agreement on this vacant property.

Item 3. *Legal Proceedings*

There has been substantial litigation regarding patent and other intellectual property rights in the semiconductor and related industries. Brooks has in the past been, and may in the future be, notified that it may be infringing intellectual property rights possessed by other third parties. Brooks cannot guarantee that infringement claims by third parties or other claims for indemnification by customers or end users of its products resulting from infringement claims will not be asserted in the future or that such assertions, if proven to be true, will not materially and adversely affect Brooks business, financial condition and results of operations. If any such claims are asserted against Brooks intellectual

property rights, we may seek to enter into a royalty or licensing arrangement. Brooks cannot guarantee, however, that a license will be available on reasonable terms or at all. Brooks could decide in the alternative to resort to litigation to challenge such claims or to attempt to design around the patented technology. Litigation or an attempted design around could be costly and would divert our management's attention and resources. In addition, if Brooks does not prevail in such litigation or succeed in an attempted design around, Brooks could be forced to pay significant damages

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or amounts in settlement. Even if a design around is effective, the functional value of the product in question could be greatly diminished.

In addition to the material set forth below, please see **Patents and Proprietary Rights** in Part 1, Item 1, **Business** for a description of certain potential patent disputes.

Commercial Litigation Matters

In January 2006 a ruling was issued against us by a Massachusetts state court in a commercial litigation matter involving us and BlueShift Technologies, Inc. Awards of damages and costs were assessed against us in January and April 2006 in the amount of approximately \$1.6 million, which had been accrued for at December 31, 2005. Following the conclusion of appellate proceedings, all amounts due of \$1.8 million have been paid and an additional charge of \$0.2 million was accrued for at September 30, 2007.

Regulatory Proceedings Relating to Equity Incentive Practices and the Restatement

On May 12, 2006, we announced that Brooks had received notice that the Boston Office of the United States Securities and Exchange Commission (the **SEC**) was conducting an informal inquiry concerning stock option grant practices to determine whether violations of the securities laws had occurred. On June 2, 2006, the SEC issued a voluntary request for information to us in connection with an informal inquiry by that office regarding a loan we previously reported had been made to former Chairman and CEO Robert Therrien in connection with the exercise by him of stock options in 1999. On June 23, 2006, we were informed that the SEC had opened a formal investigation into this matter and on the general topic of the timing of stock option grants. On June 28, 2006, the SEC issued subpoenas to Brooks and to the Special Committee of the Board of Directors, which had previously been formed on March 8, 2006, requesting documents related to Brooks' stock option grant practices and to the loan to Mr. Therrien.

On May 19, 2006, we received a grand jury subpoena from the United States Attorney (the **DOJ**) for the Eastern District of New York requesting documents relating to stock option grants. Responsibility for the DOJ's investigation was subsequently assumed by the United States Attorney for the District of Massachusetts. On June 22, 2006 the United States Attorney's Office for the District of Massachusetts issued a grand jury subpoena to us in connection with an investigation by that office into the timing of stock option grants by us and the loan to Mr. Therrien mentioned above. On May 9, 2007, we received a follow-up grand jury subpoena from the United States Attorney's Office for the District of Massachusetts in connection with the same matters.

On July 25, 2007, a criminal indictment was filed in the United States District Court for the District of Massachusetts charging Robert J. Therrien, the former Chief Executive Officer and Chairman of the Company, with income tax evasion. A separate civil complaint was filed by the Securities and Exchange Commission on July 25, 2007 against Mr. Therrien in the United States District Court for the District of Massachusetts charging him with violations of federal securities laws.

We have been cooperating fully with both the Securities and Exchange Commission and the United States Attorney's Office for the District of Massachusetts since the outset of their respective investigations. We intend to continue to cooperate with both of these agencies. We were not charged in either the SEC complaint or the indictment. The United States Attorney's Office has informed us that it has closed this matter as it relates to Brooks. The SEC's investigation is continuing, and we continue to cooperate fully with the SEC in this matter.

Private Litigation

On May 22, 2006, a derivative action was filed nominally on our behalf in the Superior Court for Middlesex County, Massachusetts, captioned as Mollie Gedell, Derivatively on Behalf of Nominal Defendant Brooks Automation, Inc. v. A. Clinton Allen, *et al.* The defendants named in the complaint are: A. Clinton Allen, Director of Brooks; Roger D. Emerick, former Director of Brooks; Edward C. Grady, Director, former President and CEO of Brooks; Amin J. Khoury, former Director of Brooks; Joseph R. Martin, Director of Brooks; John K. McGillicuddy, Director of Brooks; and Robert J. Therrien, former Director, President and CEO of Brooks.

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On May 26, 2006, a derivative action was filed in the Superior Court for Middlesex County, Massachusetts nominally on our behalf, captioned as Ralph Gorgone, Derivatively on Behalf of Nominal Defendant Brooks Automation, Inc. v. Edward C. Grady, *et al.* The defendants named in the complaint are: Mr. Grady; Mr. Allen; Mr. Emerick; Mr. Khoury; Robert J. Lepofsky, Director, President and CEO of Brooks; Mr. Martin; Mr. McGillicuddy; Krishna G. Palepu, Director of Brooks; Alfred Woollacott, III, Director of Brooks; Mark S. Wrighton, Director of Brooks; and Marvin Schorr, Director Emeritus of Brooks.

On August 4, 2006 the Superior Court for Middlesex County, Massachusetts, entered an order consolidating the above state derivative actions under docket number 06-1808 and the caption *In re Brooks Automation, Inc. Derivative Litigation*. On September 5, 2006, the plaintiffs filed a Consolidated Shareholder Derivative Complaint; the defendants named therein are: Mr. Allen, Mr. Martin, Mr. Grady, Mr. McGillicuddy, Mr. Therrien, Mr. Emerick, and Mr. Khoury; Robert W. Woodbury, Jr., Brooks Chief Financial Officer; Joseph Bellini, former President and Chief Operating Officer of Brooks Enterprise Software Group; Thomas S. Grilk, Senior Vice President, Secretary and General Counsel of Brooks; current employee Michael W. Pippins; Stanley D. Piekos and Ellen B. Richstone, Brooks former Chief Financial Officers; and David R. Beaulieu, Jeffrey A. Cassis, Santo DiNaro, Peter Frasso, Robert A. McEachern, Dr. Charles M. McKenna, James A. Pelusi, Michael F. Werner, former officers and employees of Brooks. The Consolidated Shareholder Derivative Complaint alleges that certain current and former directors and officers breached fiduciary duties owed to Brooks by backdating stock option grants, issuing inaccurate financial results and false or misleading public filings, and that Messrs. Therrien, Emerick and Khoury breached their fiduciary duties, and Mr. Therrien was unjustly enriched, as a result of the loan to and stock option exercise by Mr. Therrien mentioned above, and seeks, on our behalf, damages for breaches of fiduciary duty and unjust enrichment, disgorgement to Brooks of all profits from allegedly backdated stock option grants, equitable relief, and plaintiffs costs and disbursements, including attorneys fees, accountants and experts fees, costs, and expenses. The defendants served motions to dismiss and, in response, plaintiffs have moved for leave to amend their complaint. The Proposed Amended Complaint makes allegations substantially similar to those in the Consolidated Shareholder Derivative Complaint, and adds as defendants Richard C. Small, Senior Vice President and Corporate Controller of Brooks, and Mr. Woollacott, Mr. Wrighton, Mr. Lepofsky, and Mr. Palepu, Directors of Brooks. On May 4, 2007, the court granted plaintiffs leave to file an amended complaint. On June 22, 2007, the defendants served plaintiffs with motions to dismiss the amended complaint. The parties completed briefing the motions to dismiss on September 27, 2007, and oral argument has been scheduled for December 4, 2007.

On May 30, 2006, a derivative action was filed in the United States District Court for the District of Massachusetts, captioned as Mark Collins, Derivatively on Behalf of Nominal Defendant Brooks Automation, Inc. v. Robert J. Therrien, *et al.* The defendants in the action are: Mr. Therrien; Mr. Allen; Mr. Emerick; Mr. Grady; Mr. Khoury; Mr. Martin; and Mr. McGillicuddy.

On June 7, 2006, a derivative action was filed in the United States District Court for the District of Massachusetts, captioned as City of Pontiac General Employees Retirement System, Derivatively on Behalf of Brooks Automation, Inc. v. Robert J. Therrien, *et al.* The defendants in this action are: Mr. Therrien; Mr. Emerick; Mr. Khoury; Mr. Allen; Mr. Grady; Mr. Lepofsky; Mr. Martin; Mr. McGillicuddy; Mr. Palepu; Mr. Woollacott, III; Mr. Wrighton; and Mr. Schorr.

The District Court issued an order consolidating the above federal derivative actions on August 15, 2006, and a Consolidated Verified Shareholder Derivative Complaint was filed on October 6, 2006; the defendants named therein are: Mr. Allen, Mr. Grady, Mr. Lepofsky, Mr. Martin, Mr. McGillicuddy, Mr. Palepu, Mr. Schorr, Mr. Woollacott, Mr. Wrighton, Mr. Woodbury, Mr. Therrien, Mr. Emerick, Mr. Khoury, and Mr. Werner. The Consolidated Verified Shareholder Derivative Complaint alleges violations of Section 10(b) and Rule 10b-5 of the Exchange act; Section 14(a) of the Exchange Act; Section 20(a) of the Exchange Act; breach of fiduciary duty; corporate waste; and unjust enrichment, and seeks, on behalf of Brooks, damages, extraordinary equitable relief including disgorgement

and a constructive trust for improvidently granted stock options or proceeds from alleged insider trading by certain defendants, plaintiffs costs and disbursements including attorneys fees, accountants and experts fees, costs and expenses. On December 27, 2006, the court entered an order granting defendants motion to stay the federal derivative actions in favor of the first-filed state

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derivative action described above. The plaintiffs filed a motion to lift the stay, which the court denied on August 29, 2007.

On June 19, 2006, a putative class action was filed in the United States District Court, District of Massachusetts, captioned as *Charles E. G. Leech Sr. v. Brooks Automation, Inc., et al.* The defendants in this action are the Company; Mr. Therrien; Ellen Richstone, the Company's former Chief Financial Officer; Mr. Emerick; Mr. Khoury; Robert W. Woodbury, Jr., the Company's Chief Financial Officer; and Mr. Grady.

On July 19, 2006, a putative class action was filed in the United States District Court for the District of Massachusetts, captioned as *James R. Shaw v. Brooks Automation, Inc. et al.*, No. 06-11239-RWZ. The Defendants in the case are the Company, Mr. Therrien, Ms. Richstone, Mr. Emerick, Mr. Khoury, Mr. Woodbury, and Mr. Grady. On December 13, 2006, the Court issued an order consolidating the *Shaw* action with the *Leech* action described above and appointing a lead plaintiff and lead counsel. The lead plaintiff filed a Consolidated Amended Complaint, adding as defendants Joseph Martin, the Chairman of the Board, and PricewaterhouseCoopers LLP, the Company's auditor. The Consolidated Amended Complaint alleges violations of Section 10(b) of the Exchange Act and Rule 10b-5 against the Company, Therrien, Khoury, Emerick, Martin and Richstone; Section 20(a) of the Exchange Act against all the individual defendants; Section 11 of the Securities Act against all defendants except Richstone; Section 12(a)(2) of the Securities Act against the Company; and Section 15 of the Securities Act against all the individual defendants except Richstone.

Motions to dismiss were filed by all defendants in the case. In partial response to defendants' motions to dismiss, the lead plaintiff filed a motion to amend the complaint to add a named plaintiff on May 10, 2007. Defendants filed an opposition to this motion. On June 26, 2007, the Court heard argument on defendants' motions to dismiss and lead plaintiff's motion to amend the complaint. On November 6, 2007, the Court granted in part and denied in part defendants' motions to dismiss, and allowed lead plaintiff's motion to add a named plaintiff. The Section 10(b) and Rule 10b-5 claims against Martin and Richstone were dismissed, and the Section 11 claims against Martin, Woodbury and Grady were dismissed. The Section 11 claims against PricewaterhouseCoopers LLP were dismissed, and therefore it was dismissed entirely. The motions were denied as to the remaining claims in the Consolidated Amended Complaint.

On August 22, 2006, an action captioned as *Mark Levy v. Robert J. Therrien and Brooks Automation, Inc.*, was filed in the United States District Court for the District of Delaware, seeking recovery, on behalf of Brooks, from Mr. Therrien under Section 16(b) of the Securities Exchange Act of 1934 for alleged "short-swing" profits earned by Mr. Therrien due to the loan and stock option exercise in November 1999 referenced above, and a sale by Mr. Therrien of Brooks stock in March 2000. The Complaint seeks disgorgement of all profits earned by Mr. Therrien on the transactions, attorneys' fees and other expenses. On February 20, 2007, a second Section 16(b) action, concerning the same loan and stock option exercise in November 1999 discussed above and seeking the same remedy, was filed in the United States District Court of the District of Delaware, captioned *Aron Rosenberg v. Robert J. Therrien and Brooks Automation, Inc.* On April 4, 2007, the court issued an order consolidating the *Levy* and *Rosenberg* actions. Defendants have filed motions to dismiss.

On August 15, 2007, two actions were filed in Massachusetts Superior Court for Middlesex County, nominally on Brooks' behalf, captioned *Darr v. Grady et al.* and *Milton v. Grady et al.* The two plaintiffs in these actions purport to be shareholders who had previously demanded that Brooks take action against individuals who allegedly had involvement with backdated stock options, and to which Brooks had responded. The defendants in these actions are Mr. Grady, Mr. Woodbury, Mr. Grilk, Mr. Martin, Mr. Allen, Mr. McGillicuddy, Mr. Lepofsky, Mr. Palepu, Mr. Schorr, Mr. Woollacott, Mr. Wrighton, Mr. Therrien, Mr. Pippins, Mr. Pelusi, Mr. Cassis, Mr. Beaulieu, Ms. Richstone, Mr. Piekos, Mr. Dinaro, Mr. McKenna, Mr. Khoury, and Mr. Emerick; Juergen Giessman, former Director of Brooks; Lynda Avallone, former Vice President and Treasurer of Brooks; Steven Hebert, former Vice

President and Corporate Controller of Brooks; Deborah Fox, former Chief Accounting Officer and Corporate Controller of Brooks. These actions allege several claims against the defendants based on granting or receiving backdated stock options, including breach of fiduciary duties, corporate waste, and unjust enrichment. The complaint seeks on our behalf, *inter alia*, damages, extraordinary equitable and/or injunctive relief, an accounting, a constructive trust, disgorgement, and plaintiff's costs and disbursements, including attorneys' fees, accountants' and experts' fees, costs, and

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expenses. On September 20, 2007, the court granted defendants' motion to consolidate the two matters. The court directed the plaintiffs to file a consolidated complaint. Defendants anticipate filing motions to dismiss.

We are aware of additional proposed class actions, posted on the websites of various law firms. We are not yet aware of the filing of any such actions and have not been served with a complaint or any other process in any of these matters.

Matter to which the Company is Not a Party

Jenoptik-Asyst Litigation

We acquired certain assets, including a transport system known as IridNet, from the Infab division of Jenoptik AG on September 30, 1999. Asyst Technologies, Inc. had previously filed suit against Jenoptik AG and other defendants, or collectively, the defendants, in the Northern District of California charging that products of the defendants, including IridNet, infringe Asyst's U.S. Patent Nos. 4,974,166, or the 166 patent, and 5,097,421, or the 421 patent. Asyst later withdrew its claims related to the 166 patent from the case. Summary judgment of noninfringement was granted in that case by the District Court and judgment was issued in favor of Jenoptik on the ground that the product at issue did not infringe the asserted claims of the 421 patent. Following certain rulings and findings adverse to Jenoptik, on August 3, 2007 the District Court issued final judgment in favor of Jenoptik. In November 2007, Asyst filed a notice of appeal appealing the District Court's latest decision.

We had received notice that Asyst might amend its complaint in this Jenoptik litigation to name Brooks as an additional defendant, but no such action was ever taken. Based on our investigation of Asyst's allegations, we do not believe we are infringing any claims of Asyst's patents. Asyst may decide to seek to prohibit us from developing, marketing and using the IridNet product without a license. We cannot guarantee that a license would be available to us on reasonable terms, if at all. In any case, we could face litigation with Asyst. Jenoptik has agreed to indemnify us for any loss we may incur in this action.

Litigation is inherently unpredictable and, other than the commercial litigation matter involving us and BlueShift Technologies, Inc. where we have \$1.8 million accrued at September 30, 2007, we cannot predict the outcome of the legal proceedings described above with any certainty. Should there be an adverse judgment against us, it may have a material adverse impact on our financial statements. Because of uncertainties related to both the amount and range of losses in the event of an unfavorable outcome in the lawsuits listed above or in certain other pending proceedings for which loss estimates have not been recorded, we are unable to make a reasonable estimate of the losses that could result from these matters and hence have recorded no accrual in our financial statements as of September 30, 2007.

Item 4. *Submission of Matters to a Vote of Security Holders*

During the quarter ended September 30, 2007, no matters were submitted to a vote of security holders through the solicitation of proxies or otherwise.

Table of Contents**PART II****Item 5. *Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities***

Our common stock is traded on the Nasdaq Global Market under the symbol BRKS . The following table sets forth, for the periods indicated, the high and low close prices per share of our common stock, as reported by the Nasdaq Global Market:

| | High | Low |
|--------------------------------------|-------------|------------|
| Fiscal year ended September 30, 2007 | | |
| First quarter | \$ 15.26 | \$ 12.79 |
| Second quarter | 17.53 | 13.74 |
| Third quarter | 18.66 | 16.38 |
| Fourth quarter | 19.96 | 13.52 |
| Fiscal year ended September 30, 2006 | | |
| First quarter | \$ 13.74 | \$ 11.70 |
| Second quarter | 17.65 | 12.72 |
| Third quarter | 14.85 | 11.00 |
| Fourth quarter | 14.14 | 10.61 |

Number of Holders

As of October 31, 2007, there were 1,194 holders of record of our common stock.

Dividend Policy

We have never declared or paid a cash dividend on our capital stock. The Board of Directors periodically reviews the strategic use of cash in excess of business needs.

Issuance of Unregistered Common Stock

Not applicable.

Issuer's Purchases of Equity Securities

The following table provides information concerning shares of the Company's Common Stock \$0.01 par value purchased during the three months ended September 30, 2007.

| Total | Total Number of | Maximum Number (or Approximate Dollar Value) of |
|--------------|------------------------|--|
|--------------|------------------------|--|

| Period | Number of Shares Purchased(1) | Average Price Paid per Share | Shares Purchased as Part of Publicly Announced Plans or Programs | Shares that May Yet be Purchased Under the Plans or Programs |
|----------------------|--|---|---|---|
| July 1 31, 2007 | 6,060,000 | \$ 18.20(2) | 6,060,000 | \$ (3) |
| August 1 31, 2007 | | | | |
| September 1 30, 2007 | 38,697 | 14.24(4) | 38,697 | |
| Total | 6,098,697 | \$ 18.17 | 6,098,697 | \$ |

(1) The Company announced on May 31, 2007 a plan to repurchase up to 6,060,000 shares of its outstanding common stock over a one-month period beginning June 1, 2007 and expiring on June 28, 2007 by the use of a modified Dutch Auction tender offer.

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- (2) Based on an average purchase price of \$18.20 per share for shares received pursuant to the tender offer agreement, calculated as of July 5, 2007.
- (3) The plan expired on June 28, 2007, and there are no additional shares that may be purchased under the plan.
- (4) Forfeiture of shares to satisfy the employees' obligations with respect to withholding taxes in connection with the vesting of shares of restricted stock.

Item 6. Selected Financial Data

The selected consolidated financial data set forth below should be read in conjunction with our consolidated financial statements and notes thereto and Management's Discussion and Analysis of Financial Condition and Results of Operations, appearing elsewhere in this report.

| | Year Ended September 30, | | | | |
|---|---------------------------------|-------------------|----------------|----------------|-------------------------|
| | 2007(3)(6) | 2006(3)(5) | 2005(3) | 2004(3) | 2003(1)(2)(3)(4) |
| (In thousands, except per share data) | | | | | |
| Revenues | \$ 743,258 | \$ 607,494 | \$ 369,778 | \$ 415,474 | \$ 255,406 |
| Gross profit | \$ 219,595 | \$ 186,650 | \$ 99,786 | \$ 130,124 | \$ 52,674 |
| Income (loss) from continuing operations before income taxes and minority interests | \$ 55,636 | \$ 24,067 | \$ (5,054) | \$ 15,889 | \$ (182,306) |
| Income (loss) from continuing operations | \$ 54,301 | \$ 22,346 | \$ (5,953) | \$ 19,318 | \$ (182,003) |
| Net income (loss) | \$ 151,472 | \$ 25,930 | \$ (11,612) | \$ 14,659 | \$ (203,024) |
| Basic earnings (loss) from continuing operations per share | \$ 0.74 | \$ 0.31 | \$ (0.13) | \$ 0.45 | \$ (4.95) |
| Diluted earnings (loss) from continuing operations per share | \$ 0.73 | \$ 0.31 | \$ (0.13) | \$ 0.44 | \$ (4.95) |
| Shares used in computing basic earnings (loss) per share | 73,492 | 72,323 | 44,919 | 43,006 | 36,774 |
| Shares used in computing diluted earnings (loss) per share | 74,074 | 72,533 | 44,919 | 43,573 | 36,774 |

| | As of September 30, | | | | |
|---|----------------------------|-------------|-------------|-------------|-------------|
| | 2007 | 2006 | 2005 | 2004 | 2003 |
| (In thousands) | | | | | |
| Total assets | \$ 1,014,838 | \$ 992,577 | \$ 624,080 | \$ 671,039 | \$ 493,245 |
| Working capital | \$ 336,724 | \$ 252,633 | \$ 168,231 | \$ 294,137 | \$ 135,156 |
| Current portion of long-term debt and other obligations | \$ | \$ | \$ 12 | \$ 11 | \$ 98 |
| Subordinated notes due 2008 | \$ | \$ | \$ 175,000 | \$ 175,000 | \$ 175,000 |
| Other long-term debt (less current portion) | \$ | \$ | \$ 2 | \$ 14 | \$ 25 |

| | | | | | |
|---------------------|------------|------------|------------|------------|------------|
| Stockholders equity | \$ 859,779 | \$ 799,134 | \$ 309,835 | \$ 312,895 | \$ 162,830 |
|---------------------|------------|------------|------------|------------|------------|

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| | Year Ended September 30, 2007 | | | |
|--|--|----------------|----------------|----------------|
| | First | Second | Third | Fourth |
| | Quarter | Quarter | Quarter | Quarter |
| | (In thousands, except per share data) | | | |
| Revenues | \$ 191,368 | \$ 194,926 | \$ 190,461 | \$ 166,503 |
| Gross profit | \$ 59,682 | \$ 62,490 | \$ 57,436 | \$ 39,987 |
| Income (loss) from continuing operations | \$ 16,979 | \$ 15,751 | \$ 22,864 | \$ (1,293) |
| Basic earnings (loss) from continuing operations per share | \$ 0.23 | \$ 0.21 | \$ 0.30 | \$ (0.02) |
| Diluted earnings (loss) from continuing operations per share | \$ 0.23 | \$ 0.21 | \$ 0.30 | \$ (0.02) |

| | Year Ended September 30, 2006 | | | |
|--|--|----------------|----------------|----------------|
| | First | Second | Third | Fourth |
| | Quarter | Quarter | Quarter | Quarter |
| | (In thousands, except per share data) | | | |
| Revenues | \$ 108,495 | \$ 148,772 | \$ 163,427 | \$ 186,800 |
| Gross profit | \$ 25,463 | \$ 45,883 | \$ 55,243 | \$ 60,061 |
| Income (loss) from continuing operations | \$ (9,426) | \$ 7,113 | \$ 13,854 | \$ 10,805 |