

NUVASIVE INC  
Form 10-Q  
October 25, 2012  
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**UNITED STATES SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 10-Q**

(Mark One)

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

For the quarterly period ended September 30, 2012

OR

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

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission file number 000-50744

**NUVASIVE, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction of  
incorporation or organization)

**33-0768598**  
(I.R.S. Employer

Identification No.)

7475 Lusk Boulevard

San Diego, CA 92121

(Address of principal executive offices, including zip code)

(858) 909-1800

(Registrant's telephone number, including area code)

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**(Former name, former address and former fiscal year, if changed since last report)**

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate website, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).

Yes  No

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

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

(Do not check if a smaller reporting company)

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

As of October 19, 2012, there were 43,527,640 shares of the registrant's common stock outstanding.

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NUVASIVE, INC.

**QUARTERLY REPORT ON FORM 10-Q**

**September 30, 2012**

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	September 30, 2012 (Unaudited)	December 31, 2011
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$ 107,731	\$ 163,492
Short-term marketable securities	134,899	146,228
Accounts receivable, net	78,140	87,736
Inventory	132,958	119,313
Deferred tax assets, current	54,550	54,550
Prepaid expenses and other current assets	7,264	20,518
Total current assets	515,542	591,837
Property and equipment, net	131,158	124,754
Long-term marketable securities	42,416	32,503
Intangible assets, net	105,086	108,140
Goodwill	162,333	159,349
Deferred tax assets	19,857	19,857
Restricted cash and investments	182,067	68,600
Other assets	26,169	18,522
Total assets	\$ 1,184,628	\$ 1,123,562
<b>LIABILITIES AND STOCKHOLDERS EQUITY</b>		
Current liabilities:		
Accounts payable and accrued liabilities	\$ 63,498	\$ 51,744
Accrued payroll and related expenses	22,527	22,215
Litigation liability		101,200
Acquisition-related liabilities	32,389	32,221
Senior Convertible Notes, current	74,311	
Total current liabilities	192,725	207,380
Senior Convertible Notes	329,143	394,019
Deferred tax liabilities	4,180	3,952
Litigation liability	101,200	
Other long-term liabilities	15,581	13,461
Commitments and contingencies		
Noncontrolling interests	10,033	10,705
Stockholders' equity:		
Preferred stock, \$0.001 par value; 5,000 shares authorized, none outstanding		
Common stock, \$0.001 par value; 120,000 shares authorized, 43,505 and 42,455 issued and outstanding at September 30, 2012 and December 31, 2011, respectively	44	42
Additional paid-in capital	705,931	674,790
Accumulated other comprehensive income	1,166	477

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Accumulated deficit	(175,375)	(181,264)
Total stockholders' equity	531,766	494,045
Total liabilities and stockholders' equity	\$ 1,184,628	\$ 1,123,562

See accompanying notes to unaudited condensed consolidated financial statements.

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## NUVASIVE, INC.

## UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS

*(in thousands, except per share data)*

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2012	2011	2012	2011
Revenue	\$ 148,391	\$ 132,880	\$ 454,501	\$ 390,312
Cost of goods sold (excluding amortization of purchased technology)	37,746	26,015	111,213	75,049
Gross profit	110,645	106,865	343,288	315,263
Operating expenses:				
Sales, marketing and administrative	87,052	85,482	273,669	254,025
Research and development	7,933	10,092	27,932	31,119
Amortization of intangible assets	3,081	1,504	8,830	4,241
Litigation award		101,200		101,200
Total operating expenses	98,066	198,278	310,431	390,585
Interest and other expense, net:				
Interest income	249	257	661	591
Interest expense	(6,885)	(7,276)	(20,682)	(10,962)
Other income, net	260	1,726	146	2,303
Total interest and other expense, net	(6,376)	(5,293)	(19,875)	(8,068)
Income (loss) before income tax expense	6,203	(96,706)	12,982	(83,390)
Income tax expense (benefit)	4,064	(29,031)	7,764	(22,715)
Consolidated net income (loss)	\$ 2,139	\$ (67,675)	\$ 5,218	\$ (60,675)
Net loss attributable to noncontrolling interests	\$ (215)	\$ (123)	\$ (672)	\$ (862)
Net income (loss) attributable to NuVasive, Inc.	\$ 2,354	\$ (67,552)	\$ 5,890	\$ (59,813)
Net income (loss) per share attributable to NuVasive, Inc.:				
Basic	\$ 0.05	\$ (1.69)	\$ 0.14	\$ (1.50)
Diluted	\$ 0.05	\$ (1.69)	\$ 0.13	\$ (1.50)
Weighted average shares outstanding:				
Basic	43,488	39,892	43,227	39,766
Diluted	44,735	39,892	44,151	39,766

See accompanying notes to unaudited condensed consolidated financial statements.

**Table of Contents****NUVASIVE, INC.****UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)***(in thousands)*

	<b>Three Months Ended</b>		<b>Nine Months Ended</b>	
	<b>September 30,</b>		<b>September 30,</b>	
	<b>2012</b>	<b>2011</b>	<b>2012</b>	<b>2011</b>
Consolidated net income (loss)	\$ 2,139	\$ (67,675)	\$ 5,218	\$ (60,675)
Other comprehensive income (loss):				
Unrealized gain (loss) on investments	102	11	(43)	36
Translation adjustments	1,029	(1,763)	732	(707)
Total consolidated comprehensive income (loss)	3,270	(69,427)	5,907	(61,346)
Plus: Net loss attributable to noncontrolling interests	215	123	672	862
Comprehensive income (loss) attributable to NuVasive, Inc.	\$ 3,485	\$ (69,304)	\$ 6,579	\$ (60,484)

See accompanying notes to unaudited condensed consolidated financial statements.

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**NUVASIVE, INC.**

**UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**

*(in thousands)*

**Nine Months  
Ended  
September 30,  
2012**