

XPO Logistics, Inc.
Form SC 13G/A
January 02, 2015

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

Schedule 13G
Under the Securities Exchange Act of 1934
(Amendment No. 1)*

XPO Logistics, Inc.

(Name of Issuer)

Common Stock, par value \$0.001 per share

(Title of Class of Securities)

983793100

(CUSIP Number)

December 31, 2014

(Date of Event which Requires Filing of this Statement)

Check the appropriate box to designate the rule pursuant to which this Schedule is filed:

Rule 13d-1(b)

Rule 13d-1(c)

Rule 13d-1(d)

* The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter the disclosures provided in a prior cover page.

The information required in the remainder of this cover page shall not be deemed to be filed for the purpose of Section 18 of the Securities Exchange Act of 1934 (Act) or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

1 NAMES OF REPORTING PERSON

I.R.S IDENTIFICATION NO. OF ABOVE PERSONS (ENTITIES ONLY)

Coral Blue Investment Pte. Ltd.

(None)

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (See Instructions)

(a) (b)

3 SEC USE ONLY

4 CITIZENSHIP OR PLACE OF ORGANIZATION

Singapore

5 SOLE VOTING POWER

NUMBER OF

SHARES 0
6 SHARED VOTING POWER

BENEFICIALLY

OWNED BY 8,153,946
EACH 7 SOLE DISPOSITIVE POWER

REPORTING

PERSON 0
8 SHARED DISPOSITIVE POWER

WITH

8,153,946

9 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

8,153,946
10 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (9) EXCLUDES CERTAIN SHARES (See Instructions)

..
11 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (9)

10.53%⁽¹⁾
12 TYPE OF REPORTING PERSON (See Instructions)

CO

(1) The Reporting Person's calculation of beneficial ownership is based upon 77,420,954 shares of Common Stock, par value \$0.001 per share (the "Common Stock") of XPO Logistics, Inc. (the "Issuer") outstanding as reported in the Issuer's definitive proxy statement on Schedule 14A filed with the Securities and Exchange Commission ("SEC") on November 24, 2014, after giving effect to the issuance of 12,128,115 shares of Common Stock upon the conversion of 371,848 shares of the Issuer's Series B Convertible Perpetual Preferred Stock, as disclosed in such proxy statement.

1 NAMES OF REPORTING PERSON

I.R.S IDENTIFICATION NO. OF ABOVE PERSONS (ENTITIES ONLY)

GIC Private Limited

(None)

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (See Instructions)

(a) (b)

3 SEC USE ONLY

4 CITIZENSHIP OR PLACE OF ORGANIZATION

Singapore

5 SOLE VOTING POWER

NUMBER OF

SHARES 0
6 SHARED VOTING POWER

BENEFICIALLY

OWNED BY 8,153,946
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10.53%⁽¹⁾
12 TYPE OF REPORTING PERSON (See Instructions)

CO

- (1) The Reporting Person's calculation of beneficial ownership is based upon 77,420,954 shares of Common Stock outstanding as reported in the Issuer's definitive proxy statement on Schedule 14A filed with the SEC on November 24, 2014, after giving effect to the issuance of 12,128,115 shares of Common Stock upon the conversion of 371,848 shares of the Issuer's Series B Convertible Perpetual Preferred Stock, as disclosed in such proxy statement.

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Item 1(a). Name of Issuer:

XPO Logistics, Inc.

Item 1(b). Address of Issuer's Principal Executive Offices:

Five Greenwich Office Park,

Greenwich, CT 06831

Item 2(a). Name of Persons Filing:

I Coral Blue Investment Pte. Ltd.

II GIC Private Limited

(each individually a Reporting Person and collectively the Reporting Persons).

The Reporting Persons have entered into a Joint Filing Agreement, a copy of which is filed with this Schedule 13G as Exhibit 1 and is incorporated herein by reference. Pursuant to the Joint Filing Agreement, the Reporting Persons have agreed to file this Schedule 13G jointly in accordance with the provisions of Rule 13d-1(k)(1) under the Securities Exchange Act of 1934, as amended. The execution and filing of the Joint Filing Agreement shall not be construed as an admission that the Reporting Persons are a group or have agreed to act as a group.

Item 2(b). Address of Principal Business Office or, if none, Residence:

I & II 168 Robinson Road
#37-01 Capital Tower

Singapore 068912

Item 2(c). Citizenship:

I & II Singapore

Item 2(d). Title of Class of Securities:

Common Stock, par value \$.001 per share

Item 2(e). CUSIP Number:
983793100

Item 3. If this statement is filed pursuant to §§ 240.13d-1(b) or 240.13d-2(b) or (c), check whether the person filing is a:

- (a) .. Broker or dealer registered under section 15 of the Act (15 U.S.C. 78o).
- (b) .. Bank as defined in section 3(a)(6) of the Act (15 U.S.C. 78c).
- (c) .. Insurance company as defined in section 3(a)(19) of the Act (15 U.S.C. 78c).
- (d) .. Investment company registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a-8).
- (e) .. An investment adviser in accordance with §240.13d-1(b)(1)(ii)(E).
- (f) .. An employee benefit plan or endowment fund in accordance with §240.13d-1(b)(1)(ii)(F).
- (g) .. A parent holding company or control person in accordance with §240.13d-1(b)(1)(ii)(G).
- (h) .. A savings associations as defined in Section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813).
- (i) .. A church plan that is excluded from the definition of an investment company under section 3(c)(14) of the Investment Company Act of 1940 (15 U.S.C. 80a-3).
- (j) .. Non-U.S. institution in accordance with Rule 13d-1(b)(1)(ii)(J).
- (k) .. Group, in accordance with §240.13d-1(b)(1)(ii)(K).

Item 4. Ownership.

The aggregate number of securities and percentage of the class of securities of the Issuer beneficially owned by each Reporting Person named in Item 2(a), as well as the number of securities as to which such person is deemed to have sole power to vote or to direct the vote, shared power to vote or to direct the vote, sole power to dispose or to direct the disposition, shared power to dispose or direct the disposition, is set forth in the following table:

Reporting Person	No of Securities Beneficially Owned	Number of Shares				Percent of Class (²)
		Power to Vote		Power to Dispose		
		Sole	Shared ⁽¹⁾	Sole	Shared ⁽¹⁾	
Coral Blue Investment Pte. Ltd.	8,153,946	0	8,153,946	0	8,153,946	10.53%
GIC Private Limited	8,153,946	0	8,153,946	0	8,153,946	10.53%
Total ⁽³⁾ (all Reporting Persons)	8,153,946	0	8,153,946	0	8,153,946	10.53%

1 Coral Blue Investment Pte. Ltd. is the direct owner of 8,153,946 shares of Common Stock of the Issuer and shares the power to vote and the power to dispose of all of such shares of Common Stock with GIC Private Limited.

2 The foregoing percentages are calculated based upon 77,420,954 shares of Common Stock outstanding as reported in the Issuer's definitive proxy statement on Schedule 14A filed with the SEC on November 24, 2014, after giving

effect to the issuance of 12,128,115 shares of Common Stock upon the conversion of 371,848 shares of the Issuer's Series B Convertible Perpetual Preferred Stock, as disclosed in such proxy statement.

3 The reporting persons disclaim membership in a group.

Item 5. Ownership of Five Percent or Less of a Class.

Not Applicable.

Item 6. Ownership of More Than Five Percent on Behalf of Another Person.

Not Applicable.

Item 7. Identification and Classification of the Subsidiary Which Acquired the Security Being Reported on By the Parent Holding Company.

Not Applicable.

Item 8. Identification and Classification of Members of the Group.

Not Applicable.

Item 9. Notice of Dissolution of Group.

Not Applicable.

Item 10. Certification.

By signing below the undersigned certify that, to the best of their knowledge and belief, the securities referred to above were not acquired and are not held for the purpose of or with the effect of changing or influencing the control of the issuer of the securities and were not acquired and are not held in connection with or as a participant in any transaction having that purpose or effect, other than activities solely in connection with a nomination under Section 240.14a-11.

SIGNATURE

After reasonable inquiry and to the best of our knowledge and belief, we certify that the information set forth in this statement is true, complete and correct. We also hereby agree to file this statement jointly pursuant to the Agreement listed on Exhibit 1 hereto.

Dated: January 2, 2015.

CORAL BLUE INVESTMENT PTE. LTD.

By: /s/ Arjun Khullar

Name: Arjun Khullar

Title: Director

GIC PRIVATE LIMITED

By: /s/ Jimmy Teo

Name: Jimmy Teo

Title: Senior Vice President

By: /s/ Lim Eng Kok

Name: Lim Eng Kok

Title: Senior Vice President

LIST OF EXHIBITS

Exhibit No.	Description
1	Joint Filing Agreement

Gross
Notional⁽¹⁾

Prepaid Expenses and Other Assets

Other
Accrued
Liabilities

Gross
Notional⁽¹⁾

Prepaid Expenses and Other Assets

Other
Accrued
Liabilities
Foreign currency exchange forward contracts

Related to euro denominated receivables
\$
23,887

\$
137

\$
(71
)

\$
46,753

\$
319

\$
(44
)
Related to British pound denominated receivables
\$
6,353

\$
48

\$
—

\$
6,686

\$
171

\$
—

Related to euro denominated restricted cash
\$
242

\$
2

\$
—

\$
252

\$
—

\$
—

Total

\$
187

\$
(71
)

\$
490

\$
(44
)

(1) Represents the face amounts of forward contracts that were outstanding as of the period noted.

6. Business Combination

On the Acquisition Date, the Company completed its public offer to the shareholders of Transmode, acquiring 95.8% of the outstanding common shares and voting interest in Transmode. Transmode is a metro packet-optical networking company based in Stockholm, Sweden. The combination of the two companies brings together a complementary set of customers, products, and technologies into one company.

Shortly after the Acquisition Date, the Company initiated compulsory acquisition proceedings in accordance with Swedish law (the “Squeeze-out Proceedings”) in order to acquire the remaining 4.2% or 1.2 million Transmode shares, not tendered through the end of the offer period. As of the Acquisition Date, the fair value of the noncontrolling interest was approximately \$15.4 million, which was based on the implied enterprise value of Transmode at the Acquisition Date. In August 2016, the Company received advance title and paid an undisputed purchase price of \$16.8 million to acquire the remaining 4.2% of Transmode shares not tendered in the initial offer. The additional \$16.8 million paid resulted in the elimination of the noncontrolling interest and an increase in additional paid-in capital. As of December 31, 2016, the Company continues to maintain a security pledge of approximately \$6.1 million required by Swedish law. The final amount and timing of the final disposition will be determined by an arbitration tribunal at the completion of the Squeeze-out Proceedings, which is currently expected in 2017.

Noncontrolling interest was as follows (in thousands):

	December 31, 2016	December 26, 2015
Beginning noncontrolling interest	\$ 14,910	\$ —

Noncontrolling interest investment	—	15,373
Acquisition of noncontrolling interest	(14,407)	—
Loss attributable to noncontrolling interest	(503)	(463)
Ending noncontrolling interest	\$—	\$ 14,910

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INFINERA CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

7. Goodwill and Intangible Assets

Goodwill

Goodwill is recorded when the purchase price of an acquisition exceeds the fair value of the net tangible and identified intangible assets acquired.

The following table presents details of the Company's goodwill for the year ended December 31, 2016 (in thousands):

Balance as of December 26, 2015	\$ 191,560
Foreign currency translation adjustments (14,800)	
Accumulated impairment loss	—
Balance as of December 31, 2016	\$ 176,760

The gross carrying amount of goodwill may change due to the effects of foreign currency fluctuations as these assets are denominated in SEK.

Intangible Assets

The following table presents details of the Company's intangible assets as of December 31, 2016 and December 26, 2015 (in thousands):

	December 31, 2016			Weighted Average Remaining Useful Life (In Years)
	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount	
Intangible assets with finite lives:				
Trade names	\$ 220	\$ (220)	\$—	0.0
Customer relationships	46,125	(7,793)	38,332	6.6
Developed technology	94,320	(24,715)	69,605	3.7
Other intangible assets	819	(567)	252	4.6
Total intangible assets with finite lives	\$ 141,484	\$ (33,295)	\$ 108,189	4.7
Acquired in-process technology	286	—	286	
Total intangible assets	\$ 141,770	\$ (33,295)	\$ 108,475	

INFINERA CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

	December 26, 2015			
	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount	Weighted Average Remaining Useful Life (In Years)
Intangible assets with finite lives:				
Trade names	\$239	\$ (168)	\$71	0.2
Customer relationships	49,991	(2,197)	47,794	7.7
Developed technology	94,256	(6,629)	87,627	4.6
Other intangible assets	819	(513)	306	5.6
Total intangible assets with finite lives	\$145,305	\$ (9,507)	\$135,798	5.7
Acquired in-process technology	20,521	—	20,521	
Total intangible assets	\$165,826	\$ (9,507)	\$156,319	

The gross carrying amount of intangible assets and the related amortization expense of intangible assets may change due to the effects of foreign currency fluctuations as these assets are denominated in SEK. Amortization expense was \$26.0 million and \$9.0 million for the years ended December 31, 2016 and December 26, 2015, respectively.

Intangible assets are carried at cost less accumulated amortization. Amortization expenses are recorded to the appropriate cost and expense categories. During 2016, the Company transferred \$3.8 million of its in-process technology to developed technology, which is being amortized over a maximum useful life of seven years. In-process technology of \$0.3 million as of December 31, 2016 is not subject to amortization. As such, the Company excluded it in the future amortization expense table below. Additionally, during 2016, the Company recorded an impairment charge of \$11.3 million related to in-process research and development, resulting from the Company's decision to abandon previously acquired in-process technologies.

The following table summarizes the Company's estimated future amortization expense of intangible assets with finite lives as of December 31, 2016 (in thousands):

	Fiscal Years					
	Total	2017	2018	2019	2020	2021 and Thereafter
Total future amortization expense	\$108,189	\$24,924	\$24,924	\$24,364	\$17,779	\$16,198

INFINERA CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

8. Balance Sheet Details

Restricted Cash

The Company's long-term restricted cash balance is primarily comprised of certificates of deposit and money market funds, of which the majority is not insured by the Federal Deposit Insurance Corporation. These amounts primarily collateralize the Company's issuances of stand-by and commercial letters of credit and bank guarantees. Additionally, the Company's long-term restricted cash balance includes a leave encashment fund for India employees and a corporate bank card deposit for employees in the United Kingdom. The short-term restricted cash balance consists of a security pledge related to the Transmode acquisition Squeeze-out Proceedings and an escrow account to fund our facility expansion.

The following table provides details of selected balance sheet items (in thousands):

	December 31, 2016	December 26, 2015
Inventory:		
Raw materials	\$ 33,158	\$ 27,879
Work in process	74,533	52,599
Finished goods	125,264	94,221
Total	\$ 232,955	\$ 174,699
Property, plant and equipment, net:		
Computer hardware	\$ 12,775	\$ 11,097
Computer software ⁽¹⁾	26,779	22,548
Laboratory and manufacturing equipment	222,311	189,168
Furniture and fixtures	2,075	1,897
Leasehold improvements	42,267	38,946
Construction in progress	33,633	31,060
Subtotal	\$ 339,840	\$ 294,716
Less accumulated depreciation and amortization ⁽²⁾	(215,040)	(183,855)
Total	\$ 124,800	\$ 110,861
Accrued expenses:		
Loss contingency related to non-cancelable purchase commitments	\$ 5,555	\$ 6,821
Professional and other consulting fees	4,955	5,363
Taxes payable	2,384	3,295
Royalties	5,375	4,290
Other accrued expenses	13,311	13,967
Total	\$ 31,580	\$ 33,736

Included in computer software at December 31, 2016 and December 26, 2015 were \$9.1 million and \$7.9 million, respectively, related to enterprise resource planning ("ERP") systems that the Company implemented. The unamortized ERP costs at December 31, 2016 and December 26, 2015 were \$4.0 million and \$4.0 million, respectively.

Depreciation expense was \$35.5 million, \$26.8 million and \$25.9 million (which includes depreciation of capitalized ERP costs of \$1.2 million, \$1.2 million and \$1.1 million, respectively) for 2016, 2015 and 2014, respectively.

INFINERA CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

9. Comprehensive Income (Loss)

Other comprehensive income (loss) includes certain changes in equity that are excluded from net income (loss). The following table sets forth the changes in accumulated other comprehensive income (loss) by component for the periods presented (in thousands):

	Unrealized Gain (Loss) on Available-for-Sale Securities	Foreign Currency Translation	Accumulated Tax Effect	Total
Balance at December 28, 2013	\$ (124)	\$ (2,602)	\$ (760)	\$(3,486)
Other comprehensive loss before reclassifications	(320)	(812)	—	(1,132)
Amounts reclassified from accumulated other comprehensive loss	—	—	—	—
Net current-period other comprehensive loss	(320)	(812)	—	(1,132)
Balance at December 27, 2014	\$ (444)	\$ (3,414)	\$ (760)	\$(4,618)
Other comprehensive income before reclassifications	(62)	5,803	—	5,741
Amounts reclassified from accumulated other comprehensive loss	—	—	—	—
Net current-period other comprehensive income	(62)	5,803	—	5,741
Balance at December 26, 2015	\$ (506)	\$ 2,389	\$ (760)	\$ 1,123
Other comprehensive loss before reclassifications	297	(29,625)	(119)	(29,447)
Amounts reclassified from accumulated other comprehensive loss	—	—	—	—
Net current-period other comprehensive loss	297	(29,625)	(119)	(29,447)
Balance at December 31, 2016	\$ (209)	\$ (27,236)	\$ (879)	\$(28,324)

10. Basic and Diluted Net Income (Loss) Per Common Share

Basic net income (loss) per common share is computed by dividing net income (loss) attributable to Infinera Corporation by the weighted average number of common shares outstanding during the period. Diluted net income (loss) attributable to Infinera Corporation per common share is computed using net income (loss) attributable to Infinera Corporation and the weighted average number of common shares outstanding plus potentially dilutive common shares outstanding during the period. Potentially dilutive common shares include the assumed exercise of outstanding stock options, assumed release of outstanding RSU and PSUs, and assumed issuance of common stock under the ESPP using the treasury stock method. Potentially dilutive common shares also include the assumed conversion of convertible senior notes from the conversion spread (as discussed in Note 11, "Convertible Senior Notes"). The Company includes the common shares underlying PSUs in the calculation of diluted net income per share only when they become contingently issuable. In net loss periods, these potentially diluted common shares have been excluded from the diluted net loss calculation.

INFINERA CORPORATION
 NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

The following table sets forth the computation of net income (loss) per common share attributable to Infinera Corporation - basic and diluted (in thousands, except per share amounts):

	Years Ended December 31, 2016	December 26, 2015	December 27, 2014
Numerator:			
Net income (loss) attributable to Infinera Corporation	\$ (23,927)	\$ 51,413	\$ 13,659
Denominator:			
Basic weighted average common shares outstanding	142,989	133,259	123,672
Effect of dilutive securities:			
Employee equity plans	—	5,686	4,778
Assumed conversion of convertible senior notes from conversion spread	—	4,226	115
Dilutive weighted average common shares outstanding	142,989	143,171	128,565
Net income (loss) per common share attributable to Infinera Corporation			
Basic	\$ (0.17)	\$ 0.39	\$ 0.11
Diluted	\$ (0.17)	\$ 0.36	\$ 0.11

The Company incurred a net loss during 2016, and as a result, potential common shares from options, RSUs, PSUs and assumed release of outstanding stock under the ESPP were not included in the diluted shares used to calculate net loss per share, as their inclusion would have been anti-dilutive.

During 2015 and 2014, the Company included the dilutive effects of the Notes in the calculation of diluted net income per common share as the applicable average market price was above the conversion price of the Notes. The dilutive impact of the Notes (as defined in Note 11, "Convertible Senior Notes") for the year was based on the average dilution of the four quarters, which is calculated as the difference between the Company's average stock price during the period and the conversion price of the Notes. Given the average market price at the end of 2016 was below the conversion price, no shares were included in the dilutive share count. Upon conversion of the Notes, it is the Company's intention to pay cash equal to the lesser of the aggregate principal amount or the conversion value of the

Notes being converted, therefore, only the conversion spread relating to the Notes would be included in the Company's diluted earnings per share calculation unless their effect is anti-dilutive.

The effects of certain potentially outstanding shares were not included in the calculation of diluted net income per share for years ended December 26, 2015 and December 27, 2014 because their effect were anti-dilutive under the treasury stock method or the performance condition of the award had not been met.

The following sets forth the potentially dilutive shares excluded from the computation of the diluted net income (loss) per share because their effect was anti-dilutive (in thousands):

	As of		
	December 26, 2016	December 26, 2015	December 27, 2014
Stock options outstanding	2,042	8	362
Restricted stock units	5,302	415	331
Performance stock units	896	73	124
Employee stock purchase plan shares	1,010	225	741
Total	9,250	721	1,558

INFINERA CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

11. Convertible Senior Notes

In May 2013, the Company issued the \$150.0 million of 1.75% convertible senior notes due June 1, 2018 (the “Notes”), which will mature on June 1, 2018, unless earlier unless earlier purchased by the Company or converted. Interest is payable semi-annually in arrears on June 1 and December 1 of each year, commencing December 1, 2013. The net proceeds to the Company were approximately \$144.5 million.

The Notes are governed by an indenture dated as of May 30, 2013 (the “Indenture”), between the Company, as issuer, and U.S. Bank National Association, as trustee. The Notes are unsecured and do not contain any financial covenants or any restrictions on the payment of dividends, the incurrence of senior debt or other indebtedness, or the issuance or repurchase of securities by the Company.

Upon conversion, it is the Company's intention to pay cash equal to the lesser of the aggregate principal amount or the conversion value of the Notes. For any remaining conversion obligation, The Company intends to pay cash, shares of common stock or a combination of cash and shares of common stock, at the Company's election. The initial conversion rate is 79.4834 shares of common stock per \$1,000 principal amount of Notes, subject to anti-dilution adjustments. The initial conversion price is approximately \$12.58 per share of common stock.

Throughout the term of the Notes, the conversion rate may be adjusted upon the occurrence of certain events, including for any cash dividends. Holders of the Notes will not receive any cash payment representing accrued and unpaid interest upon conversion of a Note. Accrued but unpaid interest will be deemed to be paid in full upon conversion rather than canceled, extinguished or forfeited. Holders may convert their Notes under the following circumstances:

during any fiscal quarter commencing after the fiscal quarter ending on September 28, 2013 (and only during such fiscal quarter) if the last reported sale price of the common stock for at least 20 trading days (whether or not consecutive) during a period of 30 consecutive trading days ending on the last trading day of the immediately preceding fiscal quarter is greater than or equal to 130% of the conversion price on each applicable trading day;

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

upon the occurrence of specified corporate events described under the Indenture, such as a consolidation, merger or binding share exchange; or

at any time on or after December 1, 2017 until the close of business on the second scheduled trading day immediately preceding the maturity date, holders may convert their Notes at any time, regardless of the foregoing circumstances. If the Company undergoes a fundamental change as defined in the Indenture governing the Notes, holders may require the Company to repurchase for cash all or any portion of their Notes at a repurchase price equal to 100% of the principal amount of the Notes to be repurchased, plus accrued and unpaid interest to, but excluding, the fundamental change repurchase date. In addition, upon the occurrence of a “make-whole fundamental change” (as defined in the Indenture), the Company will, in certain circumstances, increase the conversion rate by a number of additional shares for a holder that elects to convert its Notes in connection with such make-whole fundamental change.

INFINERA CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

The net carrying amounts of the debt obligation were as follows (in thousands):

	December 31, 2016	December 26, 2015
Principal	\$150,000	\$150,000
Unamortized discount ⁽¹⁾	(15,114)	(24,560)
Unamortized issuance cost ⁽¹⁾	(1,300)	(2,113)
Net carrying amount	\$133,586	\$123,327

⁽¹⁾ Unamortized debt conversion discount and issuance costs will be amortized over the remaining life of the Notes, which is approximately 17 months.

As of December 31, 2016 and December 26, 2015, the carrying amount of the equity component of the Notes was \$43.3 million.

In accounting for the issuance of the Notes, the Company separated the Notes into liability and equity components. The carrying amount of the liability component was calculated by measuring the fair value of a similar debt instrument that does not have an associated convertible feature. The carrying amount of the equity component representing the conversion option was determined by deducting the fair value of the liability component from the par value of the Notes. The equity component is not remeasured as long as it continues to meet the conditions for equity classification. The excess of the principal amount of the liability component over its carrying amount (“debt discount”) is amortized to interest expense over the term of the Notes.

In accounting for the issuance costs of \$5.5 million related to the Notes, the Company allocated the total amount incurred to the liability and equity components of the Notes based on their relative values. Issuance costs attributable to the liability component were recorded as other non-current assets and will be amortized to interest expense over the term of the Notes. ASU 2015-03 requires an entity to present such costs in the balance sheet as a direct deduction from the related debt liability rather than as an asset. The Company adopted ASU 2015-03 during the first quarter of 2016. The December 26, 2015 balance sheet was retrospectively adjusted to reclassify \$2.1 million from other non-current assets to a reduction of the Notes payable liability.

The issuance costs attributable to the equity component were netted with the equity component in stockholders’ equity. Additionally, the Company initially recorded a deferred tax liability of \$17.0 million in connection with the issuance of the Notes, and a corresponding reduction in valuation allowance. The impact of both was recorded to stockholders’ equity.

The Company determined that the embedded conversion option in the Notes does not require separate accounting treatment as a derivative instrument because it is both indexed to the Company’s own stock and would be classified in stockholder’s equity if freestanding.

The following table sets forth total interest expense recognized related to the Notes (in thousands):

	Years Ended		
	December 31, 2016	December 26, 2015	December 27, 2014
Contractual interest expense	\$2,625	\$2,625	\$2,626
Amortization of debt issuance costs	813	735	665
Amortization of debt discount	9,447	8,546	7,730
Total interest expense	\$12,885	\$11,906	\$11,021

The coupon rate was 1.75%. For the years ended December 31, 2016 and December 26, 2015, the debt discount and debt issuance costs were amortized, using an annual effective interest rate of 10.23%, to interest expense over the term

of the Notes.

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INFINERA CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

As of December 31, 2016, the fair value of the Notes was \$154.3 million. The fair value was determined based on the quoted bid price of the Notes in an over-the-counter market on December 30, 2016. The Notes are classified as Level 2 of the fair value hierarchy.

During the three months ended December 31, 2016, the closing price of the Company's common stock did not meet the conversion criteria; therefore, holders of the Notes may not convert their notes during the first quarter of 2017. Should the closing price conditions be met during the 30 consecutive trading days prior to the end of the first quarter of 2017 or a future quarter, the Notes will be convertible at their holders' option during the immediately following quarter. Based on the closing price of the Company's common stock of \$8.49 on December 30, 2016, the if-converted value of the Notes did not exceed their principal amount.

12. Commitments and Contingencies

Operating Leases

The Company leases facilities under non-cancelable operating lease agreements. These leases have varying terms that range from one to 12 years, and contain leasehold improvement incentives, rent holidays and escalation clauses. In addition, some of these leases have renewal options for up to five years. The Company has contractual commitments to remove leasehold improvements and return certain properties to a specified condition when the leases terminate. At the inception of a lease with such conditions, the Company records an asset retirement obligation liability and a corresponding capital asset in an amount equal to the estimated fair value of the obligation. Asset retirement obligations were \$3.6 million and \$2.8 million as of December 31, 2016 and December 26, 2015, respectively. These obligations are classified as other long-term liabilities on the accompanying consolidated balance sheets.

The Company recognizes rent expense on a straight-line basis over the lease period factoring in leasehold improvement incentives, rent holidays and escalation clauses. Rent expense for all leases was \$11.0 million, \$8.6 million and \$7.2 million for 2016, 2015 and 2014, respectively. The Company did not have any sublease rental income for 2016, 2015 and 2014.

Future annual minimum operating lease payments at December 31, 2016 were as follows (in thousands):

	2017	2018	2019	2020	2021	Thereafter	Total
Operating lease payments	\$ 12,073	\$ 11,723	\$ 10,737	\$ 9,445	\$ 3,268	\$ 8,343	\$ 55,589

Purchase Commitments

The Company has service agreements with its major production suppliers, where the Company is committed to purchase certain parts. These obligations are typically less than the Company's purchase needs. As of December 31, 2016, December 26, 2015 and December 27, 2014, these non-cancelable purchase commitments were \$111.9 million, \$137.4 million and \$128.3 million, respectively.

Future purchase commitments at December 31, 2016 were as follows (in thousands):

	2017	2018	2019	2020	2021	Thereafter	Total
Purchase obligations	\$ 111,932	\$ —	\$ —	\$ —	\$ —	\$ —	—\$ 111,932

The contractual obligation tables above exclude tax liabilities of \$2.8 million related to uncertain tax positions because the Company cannot reliably estimate the timing and amount of future payments, if any.

INFINERA CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

Legal Matters

On November 23, 2016, Oyster Optics, LLP (“Oyster Optics”) filed a complaint against the Company in the United States District Court for the Eastern District of Texas. The complaint asserts U.S. Patent Nos. 6,469,816, 6,476,952, 6,594,055, 7,099,592, 7,620,327, 8,374,511 and 8,913,898 (collectively, the “Oyster Optics patents in suit”). The complaint seeks unspecified damages and a permanent injunction. The Company believes that it does not infringe any valid and enforceable claim of the Oyster Optics patents in suit, and intends to litigate this action vigorously. Because this action is in the early stages, the Company is unable to reasonably estimate the possible loss or range of loss, if any, arising from this matter.

In addition to the matter described above, the Company is subject to various legal proceedings, claims and litigation arising in the ordinary course of business. While the outcome of these matters is currently not determinable, the Company does not expect that the ultimate costs to resolve these matters will have a material effect on its consolidated financial position, results of operations or cash flows.

Loss Contingencies

The Company is subject to the possibility of various losses arising in the ordinary course of business. These may relate to disputes, litigation and other legal actions. In the preparation of its quarterly and annual financial statements, the Company considers the likelihood of loss or the incurrence of a liability, including whether it is probable, reasonably possible or remote that a liability has been incurred, as well as the Company’s ability to reasonably estimate the amount of loss, in determining loss contingencies. In accordance with U.S. GAAP, an estimated loss contingency is accrued when it is probable that a liability has been incurred and the amount of loss can be reasonably estimated. The Company regularly evaluates current information to determine whether any accruals should be adjusted and whether new accruals are required. As of December 31, 2016, the Company has accrued the estimated liabilities associated with these potential loss contingencies.

Indemnification Obligations

From time to time, the Company enters into certain types of contracts that contingently require it to indemnify parties against third party claims. The terms of such indemnification obligations vary. These contracts may relate to:

- (i) certain real estate leases under which the Company may be required to indemnify property owners for environmental and other liabilities, and other claims arising from the Company’s use of the applicable premises; and
- (ii) certain agreements with the Company’s officers, directors and certain key employees, under which the Company may be required to indemnify such persons for liabilities.

In addition, the Company has agreed to indemnify certain customers for claims made against the Company’s products, where such claims allege infringement of third party intellectual property rights, including, but not limited to, patents, registered trademarks, and/or copyrights. Under the intellectual property indemnification clauses, the Company may be obligated to defend the customer and pay for the damages awarded against the customer under an infringement claim as well as the customer’s attorneys’ fees and costs. These indemnification obligations generally do not expire after termination or expiration of the agreement containing the indemnification obligation. In certain cases, there are limits on and exceptions to the Company’s potential liability for indemnification. The Company cannot estimate the amount of potential future payments, if any, that it might be required to make as a result of these agreements. The maximum potential amount of any future payments that the Company could be required to make under these indemnification obligations could be significant. To date, the Company has not incurred any material costs as a result of the indemnification obligations and has not accrued any liabilities related to such obligations in the Company’s consolidated financial statements.

As permitted under Delaware law and the Company’s charter and bylaws, the Company has agreements whereby it indemnifies certain of its officers and each of its directors. The term of the indemnification period is for the officer’s or director’s lifetime for certain events or occurrences while the officer or director is, or was, serving at the Company’s request in such capacity. The maximum potential amount of future payments the Company could be required to make under these indemnification agreements could be significant; however, the Company has a director and officer

insurance policy that may reduce its exposure and enable it to recover all or a portion of any future amounts paid. As a result of its insurance policy coverage, the Company believes the estimated fair value of these indemnification agreements is minimal.

INFINERA CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

13. Guarantees

Product Warranties

Activity related to product warranty was as follows (in thousands):

	December 31, 2016	December 26, 2015
Beginning balance	\$ 38,844	\$ 27,040
Charges to operations	25,135	31,258
Utilization	(16,884)	(15,114)
Change in estimate ⁽¹⁾	(6,753)	(4,340)
Balance at the end of the period	\$ 40,342	\$ 38,844

The Company records hardware warranty liabilities based on the latest quality and cost information available as of that date. The changes in estimate shown here are due to changes in overall actual failure rates, the mix of new versus used units related to replacement of failed units, and changes in the estimated cost of repair. Over time, the Company's failure rates and repair costs have generally declined leading to favorable changes in warranty reserves.

Letters of Credit and Bank Guarantees

The Company had \$8.7 million of standby letters of credit and bank guarantees outstanding as of December 31, 2016. These consisted of \$4.5 million related to property leases, \$3.1 million related to customer performance guarantees and \$1.1 million related to a value added tax and customs authorities' licenses. The Company had \$5.2 million of standby letters of outstanding as of December 26, 2015. These consisted of \$3.1 million related to customer performance guarantees, \$1.2 million related to a value added tax license and \$0.9 million related to property leases.

As of December 31, 2016 and December 26, 2015, the Company has a line of credit for approximately \$1.1 million and \$1.5 million, respectively, to support the issuance of letters of credit, of which \$0.3 million had been issued and outstanding for both periods. The Company has pledged approximately \$4.5 million and \$4.7 million of assets of a subsidiary to secure this line of credit and other obligations as of December 31, 2016 and December 26, 2015, respectively.

14. Stockholders' Equity

2000 Stock Plan, 2007 Equity Incentive Plan, 2016 Equity Incentive Plan and Employee Stock Purchase Plan

In December 2000, the Company adopted the 2000 Stock Plan ("2000 Plan"). Under the 2000 Plan, as amended, the Company had reserved an aggregate of 14.2 million shares of its common stock for issuance. As of December 31, 2016, options to purchase 20 thousand shares of the Company's common stock were outstanding under the 2000 Plan. The Company has not granted any additional options or other awards under the 2000 Plan since the Company's initial public offering (the "IPO") in 2007. The 2000 Plan expired on December 6, 2010. However, the 2000 Plan will continue to govern the terms and conditions of the outstanding options previously granted under the 2000 Plan since prior to the IPO.

In February 2007, the Company's board of directors adopted the 2007 Equity Incentive Plan ("2007 Plan") and the Company's stockholders approved the 2007 Plan in May 2007. The Company has reserved a total of 46.8 million shares of common stock for issuance under the 2007 Plan. Upon stockholder approval of the 2016 Equity Incentive Plan ("2016 Plan"), the Company has ceased granting equity awards under the 2007 Plan, however the 2007 Plan will continue to govern the terms and conditions of the outstanding options previously granted under the 2007 Plan. As December 31, 2016, options to purchase 1.6 million shares of the Company's common stock were outstanding and 5.5 million RSUs were outstanding under the 2007 Plan.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

In February 2016, the Company's board of directors adopted the 2016 Plan and the Company's stockholders approved the 2016 Plan in May 2016. As of December 31, 2016, the Company reserved a total of 7.5 million shares of common stock for issuance of stock options, RSUs and PSUs to employees, non-employees, consultants and members of the Company's board of directors, pursuant to the 2016 Plan, plus any shares subject to awards granted under the Company's 2007 Equity Incentive Plan (the "2007 Plan") that, after the effective date of the 2016 Plan, expire, are forfeited or otherwise terminate without having been exercised in full to the extent such awards were exercisable, and shares issued pursuant to awards granted under the 2007 Plan that, after the effective date of the 2016 Plan, are forfeited to or repurchased by the Company due to failure to vest. The 2016 Plan has a maximum term of 10 years from the date of adoption, or it can be earlier terminated by the Company's board of directors.

The ESPP was adopted by the board of directors in February 2007 and approved by the stockholders in May 2007. The ESPP was last amended by the stockholders in May 2014 to increase the shares authorized under the ESPP to 16.6 million shares of common stock. The ESPP has a 20-year term. Eligible employees may purchase the Company's common stock through payroll deductions at a price equal to 85% of the lower of the fair market values of the stock as of the beginning or the end of six-month offering periods. An employee's payroll deductions under the ESPP are limited to 15% of the employee's compensation and employees may not purchase more than \$25,000 of stock during any calendar year.

Shares Reserved for Future Issuances

Common stock reserved for future issuance was as follows (in thousands):

	December 31, 2016
Outstanding stock options and awards	7,853
Reserved for future option and award grants	7,096
Reserved for future ESPP	4,664
Total common stock reserved for stock options and awards	19,613

INFINERA CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

Stock-based Compensation Plans

The Company has stock-based compensation plans pursuant to which the Company has granted stock options, RSUs and PSUs. The Company also has an ESPP for all eligible employees. The following tables summarize the Company's equity award activity and related information (in thousands, except per share data):

	Number of Options	Weighted-Average Exercise Price Per Share	Aggregate Intrinsic Value
Outstanding at December 28, 2013	6,367	\$ 7.26	\$ 17,452
Options granted	25	\$ 9.02	
Options exercised	(2,001)	\$ 6.99	\$ 8,182
Options canceled	(93)	\$ 12.38	
Outstanding at December 27, 2014	4,298	\$ 7.29	\$ 32,833
Options granted	—	\$ —	
Options exercised	(1,787)	\$ 7.33	\$ 21,566
Options canceled	—	\$ —	
Outstanding at December 26, 2015	2,511	\$ 7.26	\$ 28,288
Options granted	—	\$ —	
Options exercised	(825)	\$ 4.97	\$ 4,433
Options canceled	(31)	\$ 12.46	
Outstanding at December 31, 2016	1,655	\$ 8.30	\$ 965
Exercisable at December 31, 2016	1,649	\$ 8.30	\$ 965

	Number of Restricted Stock Units	Weighted-Average Grant Date Fair Value Per Share	Aggregate Intrinsic Value
Outstanding at December 28, 2013	6,583	\$ 7.72	\$ 64,443
RSUs granted	2,705	\$ 8.80	
RSUs released	(2,797)	\$ 7.84	\$ 24,858
RSUs canceled	(449)	\$ 7.85	
Outstanding at December 27, 2014	6,042	\$ 8.14	\$ 90,085
RSUs granted	2,202	\$ 18.48	
RSUs released	(3,035)	\$ 7.88	\$ 53,892
RSUs canceled	(277)	\$ 10.95	
Outstanding at December 26, 2015	4,932	\$ 12.76	\$ 91,285
RSUs granted	2,992	\$ 13.94	
RSUs released	(2,303)	\$ 11.06	\$ 26,407
RSUs canceled	(328)	\$ 13.9	
Outstanding at December 31, 2016	5,293	\$ 14.1	\$ 44,939

INFINERA CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

	Number of Performance Stock Units	Weighted-Average Grant Date Fair Value Per Share	Aggregate Intrinsic Value
Outstanding at December 28, 2013	721	\$ 7.04	\$ 7,054
PSUs granted	508	\$ 8.34	
PSUs released	(255)	\$ 6.36	\$ 2,097
PSUs canceled	(98)	\$ 7.18	
Outstanding at December 27, 2014	876	\$ 7.49	\$ 13,067
PSUs granted	332	\$ 18.23	
PSU performance earned ⁽¹⁾	129	\$ 7.32	
PSUs released	(413)	\$ 7.00	\$ 7,231
PSUs canceled	(193)	\$ 8.03	
Outstanding at December 26, 2015	731	\$ 12.35	\$ 13,540
PSUs granted	647	\$ 15.28	
PSU performance earned ⁽¹⁾	234	\$ 12.28	
PSUs released	(614)	\$ 11.34	\$ 8,077
PSUs canceled	(94)	\$ 15.18	
Outstanding at December 31, 2016	904	\$ 14.13	\$ 7,672
Expected to vest as of December 31, 2016	81		\$ 691

⁽¹⁾ Represents the additional PSUs awarded resulting from the achievement of performance goals above the performance targets established at grant.

The aggregate intrinsic value of unexercised options is calculated as the difference between the closing price of the Company's common stock of \$8.49 at December 30, 2016 and the exercise prices of the underlying stock options. The aggregate intrinsic value of the options which have been exercised is calculated as the difference between the fair market value of the common stock at the date of exercise and the exercise price of the underlying stock options. The aggregate intrinsic value of unreleased RSUs and unreleased PSUs is calculated using the closing price of the Company's common stock of \$8.49 at December 30, 2016. The aggregate intrinsic value of RSUs and PSUs released is calculated using the fair market value of the common stock at the date of release.

The following table presents total stock-based compensation cost for instruments granted but not yet amortized, net of estimated forfeitures, of the Company's equity compensation plans as of December 31, 2016. These costs are expected to be amortized on a straight-line basis over the following weighted-average periods (in thousands, except for weighted-average period):

	Unrecognized Compensation Expense, Net	Weighted- Average Period (in years)
Stock options	\$ 24	1.0
RSUs	\$ 53,340	2.4
PSUs	\$ 5,346	1.5

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

The following table summarizes information about options outstanding at December 31, 2016.

Exercise Price	Options Outstanding			Vested and Exercisable Options	
	Number of Shares	Weighted-Average Remaining Contractual Life (In thousands)	Weighted-Average Exercise Price	Number of Shares	Weighted-Average Exercise Price
\$6.30 - \$ 7.25	293	2.74	\$ 6.86	293	\$ 6.86
\$7.45 - \$ 7.61	400	1.74	\$ 7.54	400	\$ 7.54
\$7.68 - \$ 8.19	250	3.63	\$ 8.06	250	\$ 8.06
\$ 8.58	509	4.11	\$ 8.58	509	\$ 8.58
\$9.02 - \$ 22.36	203	2.20	\$ 11.46	197	\$ 11.54
	1,655	2.99	\$ 8.30	1,649	\$ 8.30

Employee Stock Options

The weighted-average remaining contractual term of options outstanding and exercisable was 3.0 years as of December 31, 2016. The Company did not grant any stock options during 2016 or 2015. Total fair value of stock options granted to employees and directors that vested during 2016 was insignificant and was approximately \$0.2 million and \$0.8 million for 2015 and 2014, respectively, based on the grant date fair value. Amortization of stock-based compensation expense related to stock options in 2016 was insignificant, and was \$0.2 million and \$0.7 million in 2015 and 2014, respectively.

The estimated values of stock options, as well as assumptions used in calculating these values were based on estimates as follows (expense amounts in thousands):

	Year Ended
Employee and Director Stock Options	December 27, 2014
Volatility	52%
Risk-free interest rate	1.3%
Expected life	4.3 years
Estimated fair value	3.85

Employee Stock Purchase Plan

The fair value of the ESPP shares was estimated at the date of grant using the following assumptions:

	Years Ended		
	December 31, 2016	December 26, 2015	December 27, 2014
Volatility	56% - 67%	39% - 53%	46% - 51%
Risk-free interest rate	0.51% - 0.52%	0.13% - 0.26%	0.02% - 0.11%
Expected life	0.5 years	0.5 years	0.3 - 0.5 years
Estimated fair value	\$3.16 - \$4.53	\$5.15 - \$6.43	\$2.05 - \$2.57

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

The Company's ESPP activity for the following periods was as follows (in thousands):

	Years Ended		
	December 31, 2016	December 26, 2015	December 27, 2014
Stock-based compensation expense	\$6,094	\$ 4,472	\$ 3,760
Employee contributions	\$13,609	\$ 12,253	\$ 10,728
Shares purchased	1,369	1,229	1,438

Restricted Stock Units

The Company granted RSUs to employees and members of the Company's board of directors to receive shares of the Company's common stock. All RSUs awarded are subject to each individual's continued service to the Company through each applicable vesting date. The Company accounted for the fair value of the RSUs using the closing market price of the Company's common stock on the date of grant. Amortization of stock-based compensation expense related to RSUs in 2016, 2015 and 2014 was approximately \$29.6 million, \$22.9 million and \$21.6 million, respectively.

Performance Stock Units

Pursuant to the 2007 Plan, the Company has granted PSUs to certain of the Company's executive officers, senior management and certain employees. All PSUs awarded are subject to each individual's continued service to the Company through each applicable vesting date and if the performance metrics are not met within the time limits specified in the award agreements, the PSUs will be canceled.

A number of PSUs granted to the Company's executive officers and senior management are based on the total shareholder return of the Company's common stock price as compared to the total shareholder return of the S&P North American Technology Multimedia Networking Index ("SPGIIPTR") over the span of one year, two years and three years. The number of shares to be issued upon vesting of these PSUs range from 0 to 2.0 times the target number of PSUs granted depending on the Company's performance against the SPGIIPTR.

The ranges of estimated values of the PSUs granted that are compared to the SPGIIPTR, as well as the assumptions used in calculating these values were based on estimates as follows:

	2016	2015	2014
Index	SPGIIPTR	SPGIIPTR	SPGIIPTR
Index volatility	18%	18% - 19%	25%
Infinera volatility	55%	48%	49% - 50%
Risk-free interest rate	0.95% - 1.07%	0.97% - 1.10%	0.66% - 0.71%
Correlation with index	0.58 - 0.59	0.52	0.60
Estimated fair value	\$10.31 - \$16.62	\$18.08 - \$19.29	\$6.59 - \$7.60

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

In addition, the Company has granted other PSUs to certain employees that only vest upon the achievement of specific operational performance criteria.

The following table summarizes by grant year, the Company's PSU activity for the year ended December 31, 2016 (in thousands):

	Total Number of Performance Stock Units	Grant Year			
		2013	2014	2015	2016
Outstanding at December 26, 2015	731	147	260	324	—
PSUs granted	647	—	—	—	647
PSUs performance earned ⁽¹⁾	234	70	53	111	—
PSUs released	(614)	(210)	(179)	(225)	—
PSUs canceled	(94)	(7)	(11)	(62)	(14)
Outstanding at December 31, 2016	904	—	123	148	633

⁽¹⁾ Represents the additional PSUs awarded resulting from the achievement of performance goals above the performance targets established at grant since the original grants were at 100% of target amounts.

Amortization of stock-based compensation expense related to PSUs in 2016, 2015 and 2014 was approximately \$6.6 million, \$5.0 million and \$2.2 million, respectively.

Stock-based Compensation Expense

The following tables summarize the effects of stock-based compensation on the Company's consolidated balance sheets and statements of operations for the periods presented (in thousands):

	Years Ended		
	December 31, 2016	December 26, 2015	December 27, 2014
Stock-based compensation effects in inventory	\$4,911	\$ 3,129	\$ 3,088
Stock-based compensation effects in fixed assets	\$67	\$ 93	\$ 119
Stock-based compensation effects in net income (loss) before income taxes			
Cost of revenue			\$2,966
Research and development			\$2,405
Sales and marketing			\$1,921
General and administrative			13,732
			11,055
			8,927
			11,043
			8,081
			7,477
			9,295
			7,354
			6,383
			37,036
			28,895
			24,708
Cost of revenue—amortization from balance sheet ⁽¹⁾	3,497	3,685	3,686
Total stock-based compensation expense	\$40,533	\$32,580	\$28,394

⁽¹⁾ Represents stock-based compensation expense deferred to inventory and deferred inventory costs in prior periods and recognized in the current period.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

15. Income Taxes

The following is a geographic breakdown of the provision for (benefit from) income taxes (in thousands):

	Years Ended		
	December 31, 2016	December 26, 2015	December 27, 2014
Current:			
Federal	\$32	\$ —	\$ —
State	861	1,239	446
Foreign	2,288	3,482	2,423
Total current	\$3,181	\$ 4,721	\$ 2,869
Deferred:			
Federal	\$—	\$ —	\$ —
State	—	—	—
Foreign	(7,932)	(3,640)	(116)
Total deferred	\$(7,932)	\$(3,640)	\$(116)
Total provision (benefit)	\$(4,751)	\$ 1,081	\$ 2,753

Loss before provision for income taxes from international operations was \$23.1 million and \$6.3 million, respectively, for the years ended December 31, 2016 and December 26, 2015. Income before provision for income taxes from international operations was \$5.6 million for the year ended December 27, 2014.

The provisions benefit for (benefit from) income taxes differ from the amount computed by applying the statutory federal income tax rates as follows:

	Years Ended					
	December 31, 2016		December 26, 2015		December 27, 2014	
Expected tax (benefit) at federal statutory rate	(35.0)%	35.0	%	35.0	%	
State taxes, net of federal benefit	2.2	%	1.5	%	1.8	%
Research credits	(8.9)	%	(5.0)	%	(11.4)	%
Stock-based compensation	22.3	%	9.6	%	14.7	%
Change in valuation allowance	(5.9)	%	(43.0)	%	(25.3)	%
Foreign rate differential	9.4	%	4.0	%	2.0	%
Other	(0.4)	%	—	%	—	%
Effective tax rate	(16.3)%		2.1	%	16.8	%

The Company recognized an income tax benefit of \$4.8 million on a loss before income taxes of \$29.2 million, income tax expense of \$1.1 million on income before income taxes of \$52.0 million and income tax expense of \$2.8 million on income before income taxes of \$16.4 million in fiscal years 2016, 2015 and 2014, respectively. The resulting effective tax rates were (16.3)%, 2.1% and 16.8% for 2016, 2015 and 2014, respectively. The 2016 and 2015 effective tax rates differ from the expected statutory rate of 35% based upon the utilization of unbenefited U.S. loss carryforwards, offset by state income taxes, non-deductible stock-based compensation expenses and foreign taxes provided on foreign subsidiary earnings. The 2016 income tax benefit compared to the 2015 income tax expense primarily relates to the tax benefit of acquisition related amortization expenses and charges, lower state income taxes because of lower profit in our U.S. operations, and reduction in tax reserves, offset by an increase in taxable foreign profits in certain jurisdictions. The tax expense for 2015 was

INFINERA CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

less than 2014 due to acquisition related amortization expenses and charges offset by higher state taxes, additional tax reserves, and an increase in taxable foreign profits.

Because of the Company's significant loss carryforward position and corresponding full valuation allowance, in all periods, the Company has not been subject to federal or state tax on its U.S. income because of the availability of loss carryforwards, with the exception of certain states' taxes for which the losses are limited by statute or amount in 2016 and more significantly in 2015, and fed and state taxes associated with a discontinued US subsidiary. If these losses and other tax attributes become fully utilized, our taxes will increase significantly to a more normalized, expected rate on U.S. earnings. The release of transfer pricing reserves in the future will have a beneficial impact to tax expense, but the timing of the impact depends on factors such as expiration of the statute of limitations or settlements with tax authorities. No significant releases are expected in the near future based on information available at this time.

Deferred income taxes reflect the net effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes. Significant components of the Company's deferred tax assets are as follows (in thousands):

	Years Ended	
	December 31, 2016	December 26, 2015
Deferred tax assets:		
Net operating losses	\$77,670	\$ 67,973
Research credits	47,405	42,093
Nondeductible accruals	42,507	38,978
Inventory valuation	30,449	21,550
Property, plant and equipment	1,692	989
Intangible assets	119	796
Stock-based compensation	9,412	9,299
Total deferred tax assets	\$209,254	\$ 181,678
Valuation allowance	(200,476)	(169,240)
Net deferred tax assets	\$8,778	\$ 12,438
Deferred tax liabilities:		
Depreciation	(239)	(232)
Accruals, reserves and prepaid expenses	(4,008)	(3,874)
Acquired intangible assets	(24,088)	(34,894)
Convertible senior notes	(5,653)	(9,070)
Total deferred tax liabilities	\$(33,988)	\$(48,070)
Net deferred tax liabilities	\$(25,210)	\$(35,632)

The ultimate realization of deferred tax assets is dependent upon the generation of future taxable income during the periods in which those temporary differences become deductible. The Company must consider all positive and negative evidence, including the Company's forecasts of taxable income over the applicable carryforward periods, its current financial performance, its market environment, and other factors in evaluating the need for a full or partial valuation allowance against its net U.S. deferred tax assets. Based on the available objective evidence, management believes it is more likely than not that the domestic net deferred tax assets will not be realizable in the foreseeable future. Accordingly, the Company has provided a full valuation allowance against its domestic deferred tax assets, net of deferred tax liabilities, as of December 31, 2016 and December 26, 2015.

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NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

To the extent that the Company determines that deferred tax assets are realizable on a more likely than not basis, and adjustment is needed, that adjustment will be recorded in the period that the determination is made and would generally decrease the valuation allowance and record a corresponding benefit to earnings.

As of December 31, 2016, the Company has net operating loss carryforwards of approximately \$205.9 million for federal tax purposes and \$104.0 million for state tax purposes. The carryforward balance reflects expected utilization of both federal and state net operating losses for the year ended December 31, 2016. Federal net operating loss carryforwards will begin to expire in 2025 while certain unutilized California losses have expired in 2016.

Additionally, the Company has federal and California research and development credits available to reduce future income taxes payable of approximately \$35.0 million and \$39.4 million, respectively, as of December 31, 2016.

Infinera Canada Inc., an indirect wholly owned subsidiary, has Scientific Research and Experimental Development Expenditures (“SRED”) credits available of \$2.2 million to offset future Canadian income tax payable as of December 31, 2016. The federal research credits will begin to expire in the year 2022 if not utilized and the California research credits have no expiration date. Canadian SRED credits will begin to expire in the year 2030 if not fully utilized.

On March 30, 2016, FASB issued Accounting Standards Update 2016-09, which the Company early adopted as of June 26, 2016. As a result of the adoption of ASU 2016-09, excess windfall tax benefits and tax deficiencies related to our stock option exercises and RSU vestings are recognized as an income tax benefit or expense in our condensed consolidated statements of operations. The adoption of ASU 2016-09 did not have any material impact on our income tax expense for the year ended December 31, 2016 due primarily to our valuation allowance position.

Under the Tax Reform Act of 1986, the amount of benefit from net operating loss and tax credit carryforwards may be impaired or limited in certain circumstances. Events which cause limitations in the amount of net operating losses that the Company may utilize in any one year include, but are not limited to, a cumulative ownership change of more than 50 percent as defined over a three-year testing period. As of December 31, 2016, the Company had determined that while ownership changes had occurred in the past, the resulting limitations were not significant enough to impact the utilization of the tax attributes against its taxable profits earned to date.

The Company’s policy with respect to its undistributed foreign subsidiaries’ earnings is to consider those earnings to be indefinitely reinvested and, accordingly, no related provision for U.S. federal and state income taxes has been provided. Upon distribution of those earnings in the form of dividends or otherwise, the Company may be subject to both U.S. income taxes (subject to an adjustment for foreign tax credits) and withholding taxes in the various foreign countries. At December 31, 2016, the undistributed earnings approximated \$28.5 million. The future tax consequence of the remittance of these earnings is negligible because of the significant net operating loss carryforwards for U.S. and state purposes and full valuation allowance provided against such carryforwards.

The aggregate changes in the balance of gross unrecognized tax benefits were as follows (in thousands):

	December 31, 2016	December 26, 2015	December 27, 2014
Beginning balance	\$ 19,130	\$ 16,978	\$ 15,148
Tax position related to current year			
Additions	2,548	2,891	1,990
Tax positions related to prior years			
Additions	1,292	—	140
Reductions	—	(497)	(76)
Lapses of statute of limitations	(688)	(242)	(224)
Ending balance	\$ 22,282	\$ 19,130	\$ 16,978

INFINERA CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

As of December 31, 2016, the cumulative unrecognized tax benefit was \$22.3 million, of which \$20.0 million was netted against deferred tax assets, which would have otherwise been subjected with a full valuation allowance. Of the total unrecognized tax benefit as of December 31, 2016, approximately \$2.3 million, if recognized, would impact the Company's effective tax rate.

As of December 31, 2016, December 26, 2015 and December 27, 2014, the Company had \$0.5 million, \$0.5 million and \$0.4 million, respectively, of accrued interest or penalties related to unrecognized tax benefits, of which less than \$0.2 million was included in the Company's provision for income taxes in each of the years ended December 31, 2016, December 26, 2015 and December 27, 2014, respectively.

The Company's policy is to include interest and penalties related to unrecognized tax benefits within the Company's provision for income taxes.

The Company is potentially subject to examination by the Internal Revenue Service and the relevant state income taxing authorities under the statute of limitations for years 2002 and forward.

The Company has received assessments of tax resulting from transfer pricing examinations in India for all but two years in the range of fiscal years ending March 2005 through March 2014. While some of the assessment years have been settled with no change from the original tax return position, the Company intends to appeal all remaining assessment years, and does not expect a significant adjustment to unrecognized tax benefits as a result of these inquiries. The Company believes that the resolution of these disputed issues will not have a material impact on our financial statements.

The Company does not currently believe there to be a reasonable possibility of a significant change in total unrecognized tax benefits that would occur within the next 12 months and, as such, amounts are classified as other long-term liabilities on the accompanying consolidated balance sheets as of December 31, 2016.

16. Segment Information

Operating segments are defined as components of an enterprise about which separate financial information is available that is evaluated regularly by the chief operating decision maker, or decision making group, in deciding how to allocate resources and in assessing performance. The Company's chief operating decision maker is the Company's Chief Executive Officer ("CEO"). The Company's CEO reviews financial information presented on a consolidated basis, accompanied by information about revenue by geographic region for purposes of allocating resources and evaluating financial performance. The Company has one business activity as a provider of optical transport networking equipment, software and services. Accordingly, the Company is considered to be in a single reporting segment and operating unit structure.

Revenue by geographic region is based on the shipping address of the customer. The following tables set forth revenue and long-lived assets by geographic region (in thousands):

Revenue

	Years Ended		
	December 31, 2016	December 26, 2015	December 27, 2014
Americas:			
United States	\$541,889	\$ 602,433	\$ 476,172
Other Americas	40,036	65,075	34,379
	\$581,925	\$ 667,508	\$ 510,551
Europe, Middle East and Africa	243,783	174,380	132,271
Asia Pacific and Japan	44,427	44,826	25,257
Total revenue	\$870,135	\$ 886,714	\$ 668,079

INFINERA CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

Property, plant and equipment, net

	December 31, December 26,	
	2016	2015
United States	\$ 117,715	\$ 102,702
Other Americas	218	173
	117,933	102,875
Europe, Middle East and Africa	3,822	5,417
Asia Pacific and Japan	3,045	2,569
Total property, plant and equipment, net	\$ 124,800	\$ 110,861

17. Employee Benefit Plan

Defined Contribution Plans

The Company has established a savings plan under Section 401(k) of the Internal Revenue Code (the “401(k) Plan”). As allowed under Section 401(k) of the Internal Revenue Code, the 401(k) Plan provides tax-deferred salary contributions for eligible U.S. employees. Employee contributions are limited to a maximum annual amount as set periodically by the Internal Revenue Code. The Company made voluntary cash contributions and matched a portion of employee contributions of \$2.1 million and \$1.7 million for 2016 and 2015, respectively. Expenses related to the 401(k) Plan were insignificant for 2016, 2015 and 2014.

In connection with the Company's acquisition of Transmode during the third quarter of 2015, the Company has an ITP pension plan covering its Swedish employees. Commitments for old-age and survivors' pension for salaried employees in Sweden are vested through an insurance policy. Expenses related to the ITP pension plan were \$2.6 million for 2016 and \$0.8 million from the Acquisition Date through December 26, 2015.

The Company also provides defined contribution plans in certain foreign countries where required by local statute or at the Company's discretion.

INFINERA CORPORATION

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—(Continued)

18. Financial Information by Quarter (Unaudited)

The following table sets forth the Company's unaudited quarterly consolidated statements of operations data for 2016 and 2015. The data has been prepared on the same basis as the audited consolidated financial statements and related notes included in this report. The table includes all necessary adjustments, consisting only of normal recurring adjustments that the Company considers necessary for a fair presentation of this data.

	For the Three Months Ended (Unaudited)							
	2016				2015			
	Dec. 31	Sep. 24	Jun. 25	Mar. 26	Dec. 26	Sep. 26	Jun. 27	Mar. 28
	(In thousands, except per share data)							
Revenue:								
Product	\$151,365	\$156,188	\$227,532	\$216,082	\$227,040	\$202,365	\$178,982	\$160,843
Services	29,678	29,264	31,290	28,736	32,994	30,107	28,364	26,019
Total revenue	181,043	185,452	258,822	244,818	260,034	232,472	207,346	186,862
Cost of revenue:								
Cost of product	101,702	91,064	122,438	118,062	130,765	117,154	99,491	89,506
Cost of services	10,309	9,786	12,638	10,418	13,505	12,513	11,059	9,244
Total cost of revenue	112,011	100,850	135,076	128,480	144,270	129,667	110,550	98,750
Gross profit	69,032	84,602	123,746	116,338	115,764	102,805	96,796	88,112
Operating expenses	114,900	95,461	107,664	101,467	101,975	88,545	80,266	72,955
Income (loss) from operations	(45,868)	(10,859)	16,082	14,871	13,789	14,260	16,530	15,157
Other income (expense), net	5,589	(2,854)	(3,295)	(2,847)	(2,013)	(5,901)	2,384	(2,175)
Income (loss) before income taxes	(40,279)	(13,713)	12,787	12,024	11,776	8,359	18,914	12,982
Provision for (benefit from) income taxes	(4,026)	(2,416)	1,475	216	(392)	(151)	1,008	616
Net income (loss)	\$(36,253)	\$(11,297)	\$11,312	\$11,808	\$12,168	\$8,510	\$17,906	\$12,366
Less: Net loss attributable to noncontrolling interest	—	(125)	(171)	(207)	(463)	—	—	—
Net income (loss) attributable to Infinera Corporation	\$(36,253)	\$(11,172)	\$11,483	\$12,015	\$12,631	\$8,510	\$17,906	\$12,366
Net income (loss) per common share attributable to Infinera Corporation								
Basic	\$(0.25)	\$(0.08)	\$0.08	\$0.09	\$0.09	\$0.06	\$0.14	\$0.10
Diluted	\$(0.25)	\$(0.08)	\$0.08	\$0.08	\$0.08	\$0.06	\$0.13	\$0.09

The Company operates and reports financial results on a fiscal year of 52 or 53 weeks ending on the last Saturday of December in each year. Accordingly, fiscal year 2016 was a 53-week year that ended on December 31, 2016, and fiscal year 2015 was a 52-week year that ended on December 26, 2015. The quarters for fiscal years 2016 and 2015 were 14-week and 13-week quarters, respectively.

During the third quarter of 2015, the Company completed its public offer to the shareholders of Transmode, acquiring 95.8% of the outstanding common shares and voting interest in Transmode. This acquisition was accounted for as a business combination, and accordingly, the Company has consolidated the financial results of Transmode with its financial results since the Acquisition Date.

During the fourth quarter of 2016, the Company recorded an impairment charge of \$11.3 million related to in-process research and development, resulting from the Company's decision to abandon previously acquired in-process technologies. Additionally, during the same period, the Company recognized a gain of \$9.0 million on the sale of a cost-method investment.

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ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

ITEM 9A. CONTROLS AND PROCEDURES

Attached as exhibits to this Form 10-K are certifications of our Chief Executive Officer (“CEO”) and Chief Financial Officer (“CFO”), which are required in accordance with Rule 13a-14 of the Exchange Act. This “Controls and Procedures” section includes information concerning the internal controls and controls evaluation referred to in the certifications.

Evaluation of Disclosure Controls and Procedures

An evaluation was performed by our management, with the participation of our CEO and our CFO, of the effectiveness of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act). Disclosure controls and procedures are designed to ensure that information required to be disclosed in our reports filed or submitted under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC’s rules and forms and that such information is accumulated and communicated to management, including our CEO and CFO, as appropriate, to allow timely decisions regarding required disclosure. Based on this evaluation, our CEO and CFO concluded that, as of December 31, 2016, our disclosure controls and procedures are effective.

Inherent Limitations on Effectiveness of Controls

The Company’s management, including the CEO and CFO, does not expect that our disclosure controls or our internal controls over financial reporting will prevent or detect all errors and all fraud. A control system, no matter how well designed and operated, can provide only reasonable, not absolute, assurance that the control system’s objectives will be met. The design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Further, because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that misstatements due to error or fraud will not occur or that all control issues and instances of fraud, if any, have been detected. The design of any system of controls is based in part on certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions. Projections of any evaluation of the effectiveness of controls to future periods are subject to risks. Over time, controls may become inadequate because of changes in business conditions or deterioration in the degree of compliance with policies or procedures.

Changes in Internal Control over Financial Reporting

During the fourth quarter of fiscal 2016, there were no changes in the Company’s internal control over financial reporting that have materially affected, or are reasonably likely to materially affect, the Company’s internal control over financial reporting.

Management’s Report on Internal Control Over Financial Reporting

The Company’s management, with the participation of our CEO and CFO, is responsible for establishing and maintaining adequate internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) to provide reasonable assurance regarding the reliability of our financial reporting and the preparation of financial statements for external purposes in accordance with U.S. GAAP.

Management assessed the effectiveness of our internal control over financial reporting as of December 31, 2016, the end of our fiscal year. Management based its assessment on the framework established in the 2013 Internal Control - Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (“2013 COSO framework”). Management’s assessment included evaluation of elements such as the design and operating effectiveness of key financial reporting controls, process documentation, accounting policies, and our overall control environment. This assessment is supported by testing and monitoring performed by our internal audit and finance personnel utilizing the 2013 COSO framework.

Based on our assessment, management has concluded that our internal control over financial reporting was effective as of the end of our fiscal year 2016 to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external reporting purposes in accordance with U.S. generally accepted accounting principles.

The effectiveness of our internal control over financial reporting as of the end of fiscal year 2016 has been audited by Ernst & Young, LLP, an independent registered public accounting firm, as stated in their report which is included elsewhere herein.

ITEM 9B. OTHER INFORMATION

None.

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PART III

ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

Information responsive to this item is incorporated herein by reference to our definitive proxy statement with respect to our 2017 Annual Meeting of Stockholders to be filed with the SEC within 120 days after the end of the fiscal year covered by this Annual Report on Form 10-K. For information pertaining to our executive officers, refer to the section entitled "Executive Officers" in Part 1, Item 1 of this Annual Report on Form 10-K.

As part of our system of corporate governance, our board of directors has adopted a code of business conduct and ethics. The code applies to all of our employees, officers (including our principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions), agents and representatives, including our independent directors and consultants, who are not employees of Infinera, with regard to their Infinera-related activities. The full text of our code of business conduct and ethics is posted on our web site at <http://www.infinera.com>. We intend to disclose future amendments to certain provisions of our code of business conduct and ethics, or waivers of such provisions, applicable to any principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions or our directors on our web site identified above. The inclusion of our web site address in this report does not include or incorporate by reference the information on our web site into this report.

ITEM 11. EXECUTIVE COMPENSATION

Information responsive to this item is incorporated herein by reference to our definitive proxy statement with respect to our 2017 Annual Meeting of Stockholders to be filed with the SEC within 120 days after the end of the fiscal year covered by this Annual Report on Form 10-K.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

Information responsive to this item is incorporated herein by reference to our definitive proxy statement with respect to our 2017 Annual Meeting of Stockholders to be filed with the SEC within 120 days after the end of the fiscal year covered by this Annual Report on Form 10-K.

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE

Information responsive to this item is incorporated herein by reference to our definitive proxy statement with respect to our 2017 Annual Meeting of Stockholders to be filed with the SEC within 120 days after the end of the fiscal year covered by this Annual Report on Form 10-K.

ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES

Information responsive to this item is incorporated herein by reference to our definitive proxy statement with respect to our 2017 Annual Meeting of Stockholders to be filed with the SEC within 120 days after the end of the fiscal year covered by this Annual Report on Form 10-K.

PART IV

ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES

(a)(1) Consolidated Financial Statements

This Annual Report on Form 10-K contains the following financial statements which appear under Part II, Item 8 of this Form 10-K on the pages noted below:

	Page
Reports of Ernst & Young LLP, Independent Registered Public Accounting Firm	<u>54</u>
Consolidated Balance Sheets	<u>56</u>
Consolidated Statements of Operations	<u>57</u>
Consolidated Statement of Comprehensive Income (Loss)	<u>58</u>
Consolidated Statements of Stockholders' Equity	<u>59</u>
Consolidated Statements of Cash Flows	<u>61</u>
Notes to Consolidated Financial Statements	<u>62</u>

(a)(2) Financial Statement Schedule

Schedule II: Valuation and Qualifying Accounts

	Years Ended		
	December 31, 2016	December 26, 2015	December 27, 2014
	(In thousands)		
Deferred tax asset, valuation allowance			
Beginning balance	\$ 169,240	\$ 199,698	\$ 202,747
Additions	31,913	15,266	17,276
Reductions	(677)	(45,724)	(20,325)
Ending balance	\$ 200,476	\$ 169,240	\$ 199,698
Allowance for doubtful accounts			
Beginning balance	\$ 630	\$ 38	\$ 43
Additions	772	657	18
Reductions	(630)	(65)	(23)
Ending balance	\$ 772	\$ 630	\$ 38

Schedules not listed above have been omitted because the information required to be set forth therein is not applicable or is shown in the consolidated financial statements or notes thereto.

(a)(3) Exhibits.

See Index to Exhibits. The Exhibits listed in the accompanying Index to Exhibits are filed or incorporated by reference as part of this Annual Report on Form 10-K.

INDEX TO EXHIBITS

Exhibit No. Description

- 3.1 Amended and Restated Certificate of Incorporation, incorporated herein by reference to Exhibit 3.1 of the Registrant's Current Report on Form 8-K (No. 001-33486), filed with the SEC on June 12, 2007.
- 3.2 Amended and Restated Bylaws, incorporated herein by reference to Exhibit 3.1 of the Registrant's Current Report on Form 8-K (No. 001-33486), filed with the SEC on February 29, 2016.
- 4.1 Form of Common Stock Certificate, incorporated herein by reference to Exhibit 4.1 of the Registrant's Form S-1/A (No. 333-140876), filed with the SEC on April 27, 2007.
- 4.2 Indenture dated May 30, 2013, between the Registrant and U.S. Bank National Association, as trustee, incorporated herein by reference to Exhibit 4.1 of the Registrant's Current Report on Form 8-K (No. 001-33486), filed with the SEC on May 30, 2013.
- 10.1* Form of Indemnification Agreement between Registrant and each of its directors and executive officers, incorporated herein by reference to Exhibit 10.1 of the Registrant's Form S-1 (No. 333-140876), filed with the SEC on February 26, 2007.
- 10.2* 2000 Stock Plan, as amended, and forms of stock option agreements thereunder, incorporated herein by reference to Exhibit 10.2 of the Registrant's Form S-1 (No. 333-140876), filed with the SEC on February 26, 2007.
- 10.3* 2007 Equity Incentive Plan, incorporated herein by reference to Exhibit 10.3 of the Registrant's Annual Report on Form 10-K (No. 001-33486), filed with the SEC on February 18, 2015.
- 10.4* Infinera Corporation 2007 Employee Stock Purchase Plan.
- 10.5* Form of 2007 Employee Stock Purchase Plan Subscription Agreement, incorporated herein by reference to Exhibit 10.2 of the Registrant's Current Report on Form 8-K (no. 001-33486), filed with the SEC on May 20, 2014.
- 10.6* Bonus Plan, incorporated by reference herein to Exhibit 10.1 of the Registrant's Current Report on 8-K (No. 001-33486), filed with the SEC on February 14, 2011.
- 10.7* Form of Section 16 Officer Restricted Stock Unit Agreement under the 2007 Equity Incentive Plan, incorporated herein by reference to Exhibit 10.7 of the Registrant's Annual Report on Form 10-K (No. 001-33486), filed with the SEC on February 18, 2015.
- 10.8* Form of Section 16 Officer Performance Share Agreement under the 2007 Equity Incentive Plan, incorporated herein by reference to Exhibit 10.8 of the Registrant's Annual Report on Form 10-K (No. 001-33486), filed with the SEC on February 18, 2015.
- 10.9* Form of Director Restricted Stock Unit Agreement under the 2007 Equity Incentive Plan, incorporated herein by reference to Exhibit 10.9 of the Registrant's Annual Report on Form 10-K (No. 001-33486), filed with the SEC on February 18, 2015.
- 10.10* Form of Stock Option Agreement under the 2007 Equity Incentive Plan, incorporated herein by reference to Exhibit 10.1 of the Registrant's Quarterly Report on Form 10-Q (No. 001-33486), filed with the SEC on May 5, 2010.
- 10.11* Form of CEO Amended and Restated Change of Control Severance Agreement, incorporated herein by reference to Exhibit 10.10 of the Registrant's Annual Report on Form 10-K (No. 001-33486), filed with the SEC on March 5, 2013.
- 10.12* Form of Section 16 Officer Amended and Restated Change of Control Severance Agreement, incorporated herein by reference to Exhibit 10.11 of the Registrant's Annual Report on Form 10-K (No. 001-33486), filed with the SEC on March 5, 2013.
- 10.13* Executive Clawback Policy, incorporated herein by reference to Exhibit 10.2 of the Registrant's Current Report on Form 8-K (No. 001-33486), filed with the SEC on January 17, 2013.
- 10.14 Purchase Agreement dated May 23, 2013, between the Registrant and Morgan Stanley and Co. LLC and Goldman, Sachs & Co., as representatives of the initial purchasers, incorporated herein by reference to Exhibit 10.1 of the Registrant's Current Report on Form 8-K (No. 001-33486), filed with the SEC on May 24, 2013.
- 10.15*

Executive Severance Policy, incorporated herein by reference to Exhibit 10.19 of the Registrant's Annual Report on Form 10-K (No. 001-33486), filed with the SEC on February 18, 2015.

10.16*

Infinera Corporation 2016 Equity Incentive Plan, incorporated herein by reference to Exhibit 10.1 of the Registrant's Current Report on Form 8-K (No. 001-33486), filed with the SEC on May 17, 2016.

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Exhibit No.	Description
10.17*	Form of Notice of Grant of Restricted Stock Units under the 2016 Equity Incentive Plan, incorporated herein by reference to Exhibit 10.2 of the Registrant's Current Report on Form 8-K (No. 001-33486), filed with the SEC on May 17, 2016.
10.18*	Form of Notice of Grant of Restricted Stock Units for Directors under the 2016 Equity Incentive Plan, incorporated herein by reference to Exhibit 10.3 of the Registrant's Current Report on Form 8-K (No. 001-33486), filed with the SEC on May 17, 2016.
10.19*	Form of Notice of Grant of Performance Shares under the 2016 Equity Incentive Plan, incorporated herein by reference to Exhibit 10.4 of the Registrant's Current Report on Form 8-K (No. 001-33486), filed with the SEC on May 17, 2016.
21.1	Subsidiaries.
23.1	Consent of Ernst & Young LLP, Independent Registered Public Accounting Firm.
31.1	Certification of Chief Executive Officer pursuant to Rule 13a-14(a) and Rule 15d-14(a) of the Securities Exchange Act of 1934, as amended, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certification of Chief Financial Officer pursuant to Rule 13a-14(a) and Rule 15d-14(a) of the Securities Exchange Act of 1934, as amended, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1**	Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2**	Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101.INS	XBRL Instance Document
101.SCH	XBRL Taxonomy Extension Schema Document
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document
101.LAB	XBRL Taxonomy Extension Label Linkbase Document
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document

* Management contracts or compensation plans or arrangements in which directors or executive officers are eligible to participate.

This exhibit shall not be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934 or otherwise subject to the liabilities of that section, nor shall it be deemed incorporated by reference in any filings under the Securities Act of 1933 or the Securities Act of 1934, whether made before or after the date hereof and irrespective of any general incorporation language in any filings.

SIGNATURES

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

Dated: February 23, 2017

Infinera Corporation

By: /s/ BRAD D. FELLER

Brad D. Feller

Chief Financial Officer

Principal Financial and Accounting Officer

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Thomas J. Fallon and Brad D. Feller, and each of them individually, his or her attorneys-in-fact, each with the power of substitution, for him or her in any and all capacities, to sign any amendments to this Annual Report on Form 10-K, and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that each of said attorneys-in-fact, or his substitute or substitutes, may do or cause to be done by virtue hereof.

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

Name and Signature	Title	Date
/s/ THOMAS J. FALLON Thomas J. Fallon	Chief Executive Officer and Director and Principal Executive Officer	February 23, 2017
/s/ BRAD D. FELLER Brad D. Feller	Chief Financial Officer, Principal Financial and Accounting Officer	February 23, 2017
/s/ DAVID F. WELCH, PH.D. David F. Welch, Ph.D.	Co-founder, President and Director	February 23, 2017
/s/ KAMBIZ Y. HOOSHMAND Kambiz Y. Hooshmand	Chairman of the Board	February 23, 2017
/s/ JOHN P. DAANE John P. Daane	Director	February 23, 2017
/s/ MARCEL GANI Marcel Gani	Director	February 23, 2017
/s/ PAUL J. MILBURY Paul J. Milbury	Director	February 23, 2017
/s/ RAJAL M. PATEL Rajal M. Patel	Director	February 23, 2017
/s/ MARK A. WEGLEITNER Mark A. Wegleitner	Director	February 23, 2017