PRECISION OPTICS Corp INC
Form S-1
October 26, 2012

As filed with the Securities and Exchange Commission on October 26, 2012

Registration Statement No. 333-_______

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM S-1

REGISTRATION STATEMENT

UNDER THE SECURITIES ACT OF 1933

PRECISION OPTICS CORPORATION, INC.

(Exact name of registrant as specified in its charter)

Massachusetts	3845	**04-2795294**
(State or other jurisdiction of incorporation or organization)	(Primary Standard Industrial Classification Code Number)	(I.R.S. Employer Identification Number)

Precision Optics Corporation, Inc. 22 East Broadway Gardner, MA 01440 (978) 630-1800 (Address and telephone number of registrant's principal executive offices)	Dr. Joseph N. Forkey Precision Optics Corporation, Inc. 22 East Broadway Gardner, MA 01440 (978) 630-1800 (Name, address, and telephone of agent for service)

Copies of communications to:

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Approximate date of commencement of proposed sale to the public: From time to time after this registration statement becomes effective.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933 check the following box: x

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. o

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

Large accelerated filer o Accelerated filer o

Non-accelerated filer o (Do not check if a smaller reporting company) Smaller reporting company x

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Amount to be Registered (1)	Proposed Maximum Offering Price Per Unit (2)	Proposed Maximum Aggregate Offering Price (2)	Amount of Registration Fee
Common Stock, par value $0.01, to be sold by existing stockholders	5,730,547	$1.14	$6,532,824	$891.10

(1) Pursuant to Rule 416(a) of the Securities Act of 1933, as amended, this registration statement shall be deemed to cover additional securities that may be offered or issued to prevent dilution resulting from stock splits, stock dividends or similar transactions.

(2) Estimated solely for the purpose of calculating the amount of the registration fee pursuant to Rule 457 of the Securities Act. The price per share and aggregate offering prices for the shares registered hereby are calculated on the basis of $1.14, which is the average of the high and low prices of the registrant's common stock as reported on the OTCQB on October 23, 2012.

The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the registration statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

The information in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and we are not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

PROSPECTUS

PRECISION OPTICS CORPORATION, INC.

OFFERING UP TO 5,730,547 SHARES OF COMMON STOCK

This prospectus relates to the sale or other disposition of up to 5,730,547 shares of our common stock and shares underlying warrants by selling stockholders. We are not selling any securities in this offering and therefore will not receive any proceeds from this offering. We may receive proceeds from the possible future exercise of warrants. All costs associated with this registration will be borne by us. Our common stock is quoted on the OTCQB under the symbol “PEYE.” On October 23, 2012, the last reported sale price of our common stock on the OTCQB was $1.10 per share.

THIS INVESTMENT INVOLVES A HIGH DEGREE OF RISK. YOU SHOULD PURCHASE

SECURITIES ONLY IF YOU CAN AFFORD A COMPLETE LOSS.

SEE “RISK FACTORS” BEGINNING ON PAGE 6.

You should rely only on the information provided in this prospectus or any supplement to this prospectus and information incorporated by reference. We have not authorized anyone else to provide you with different information. Neither the delivery of this prospectus nor any distribution of the shares of common stock pursuant to this prospectus shall, under any circumstances, create any implication that there has been no change in our affairs since the date of this prospectus.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

Subject to completion, the date of this prospectus is October 26, 2012.

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PRECISION OPTICS CORPORATION, INC.

PROSPECTUS SUMMARY

The following information is a summary of the prospectus and it does not contain all of the information you should consider before making an investment decision. You should read the entire prospectus carefully, including the financial statements and the notes relating to the financial statements.

ABOUT US

We incorporated in Massachusetts in December 1982 and have been publicly-owned since November 1990. References to our Company contained herein include our two wholly-owned subsidiaries, Precise Medical, Inc. and Wood's Precision Optics Corporation, Limited, except where the context otherwise requires. Our fiscal year end is June 30. Our principal executive offices are located at 22 East Broadway, Gardner, Massachusetts 01440-3338. Our telephone number is (978) 630-1800. Our website is www.poci.com. Information contained on our website does not constitute part of this prospectus.

We have been developing and manufacturing advanced optical instruments since 1982. Today, the vast majority of our business is the design and manufacture of high-quality medical devices and approximately 10% of our business is design and manufacture of military and industrial products. Our medical instrumentation line includes traditional endoscopes and endocouplers as well as other custom imaging and illumination products for use in minimally invasive surgical procedures. Much of our recent development efforts have been targeted at the development of next generation endoscopes. For the last ten years, we have funded internal research and development programs to develop next generation capabilities for designing and manufacturing 3D endoscopes and very small Microprecision™ lenses, anticipating future requirements as the surgical community continues to demand smaller and more enhanced imaging systems for minimally invasive surgery. Our unique proprietary technology in these areas, combined with recent developments in the areas of 3D displays and millimeter sized image sensors, has allowed us to begin commercialization of these technologies. We believe that new products based on these technologies provide enhanced imaging for existing surgical procedures and can enable development of many new procedures. While we have continued to provide custom optics solutions to our medical device company customers, we simultaneously focused significant development efforts on further advancement of proprietary technology for 3D endoscopy and Microprecision™ optical components and micro medical camera assemblies.

SUMMARY FINANCIAL DATA

Because this is only a summary of our financial information, it does not contain all of the financial information that may be important to you. Therefore, you should carefully read all of the information in this prospectus and any prospectus supplement, including the financial statements and their explanatory notes and the section entitled "Management's Discussion and Analysis of Financial Condition and Results of Operations," before making a decision to invest in our common stock. The information contained in the following summary is derived from our financial statements for the fiscal years ended June 30, 2012 and 2011.

	Fiscal Year Ended 06/30/2012	Fiscal Year Ended 06/30/2011
Revenues	$2,152,396	$2,245,137
Cost of Goods Sold	1,594,990	1,493,021
Gross profit	557,406	752,116
Research and Development Expenses, net	664,696	825,033
Selling, General and Administrative Expenses	1,187,665	958,509
Gain on Sale of Assets and Other	(10,226)	(39,518)
Total operating expenses	1,842,135	1,744,024
Operating loss	(1,284,729)	(991,908)
Gain on Sale of Patents	2,276,286	–
Interest Income	535	207
Interest Expense	(30,208)	(60,000)
Income (Loss) before provision for income taxes	961,884	(1,051,701)
Provision for Income Taxes	912	912
Net Income (loss)	$960,972	$(1,052,613)

THE OFFERING

Common stock outstanding as of October 22, 2012	4,029,134 shares
Common stock to be registered	5,730,547 shares
Use of proceeds	We will not receive any proceeds from the sale or other disposition of common stock by the selling stockholders. We may receive proceeds from the exercise of warrants. We intend to use the proceeds from the exercise of warrants, if any, for working capital purposes.
Stock symbol	PEYE

THE TRANSACTIONS

Private Placement of Common Stock and Warrants on September 28, 2012

On September 28, 2012, we closed on agreements with accredited investors for the sale and purchase of units consisting of an aggregate of (i) 2,777,795 shares of our common stock, and (ii) warrants to purchase an aggregate of 1,944,475 shares of common stock, at a per unit price of $0.90. Each unit consisted of one share of common stock and 70% warrant coverage. The warrants have an exercise price of $1.25 per share, subject to adjustment and a call provision if certain market price targets are reached, will expire five years from September 28, 2012, and are exercisable in whole or in part, at any time prior to expiration. Certain directors and officers participated in the offering and purchased a total aggregate amount of approximately $80,000 of units in the offering.

We received $2.5 million in gross proceeds from the offering. We retained Loewen, Ondaatje, McCutcheon USA LTD as the exclusive placement agent for the offering. In addition to the payment of certain cash fees upon closing of the offering, we issued a warrant to the placement agent to purchase up to 194,446 shares of common stock on substantially similar terms to the warrants issued in the offering, except that the placement agent warrant has an exercise price of $0.95 per share. We anticipate using the net proceeds from the offering to fund start-up costs associated with our previously-announced order for micro endoscopes as well as other recently received orders for new products in addition to working capital needs and for general corporate purposes.

In conjunction with the offering, we also entered into a registration rights agreement dated September 28, 2012 with the Investors, whereby we are obligated to file a registration statement with the Securities and Exchange Commission on or before thirty calendar days after September 28, 2012 to register the resale by the Investors of the 2,777,795 shares of the common stock purchased in the offering, and the 1,944,475 shares of common stock underlying the warrants purchased in the offering. If a registration statement covering the securities is not filed with the SEC prior to the 30th day filing deadline (the “Filing Deadline”), we will have to pay an amount equal to 1.0% of the aggregate amount invested by each Investor each month as liquidated damages, subject to certain conditions. We are also obligated to use all commercially reasonable efforts to have the registration statement declared effective by the SEC within 60 days after the registration statement is filed, or 90 days if we receive comments on the registration statement from the SEC. If there is not an effective registration statement in place by the 60th day after the Filing Deadline, or the 90th day after the Filing Deadline if we receive comments from the SEC, we will have to pay an amount equal to 1.0% of the aggregate amount invested by each Investor each month as liquidated damages, subject to certain conditions.

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The selling stockholders who participated in the September 28, 2012 offering were as follows:

Selling Stockholder	Common shares purchased in the September 2012 offering	Shares that may be issued upon exercise of warrants in the September 2012 offering	Consideration paid for common stock and warrants in the September 2012 offering
Allan, David G.	111,112	77,779	$100,000.80
Alpha Capital Anstalt	277,778	194,445	$250,000.20
Arno, Elizabeth	27,778	19,445	$25,000.20
Elizabeth Arno cust FBO George Arno UTMA	5,556	3,890	$5,000.40
Elizabeth Arno cust FBO Melissa Arno UTMA	5,556	3,890	$5,000.40
DAFNA LifeScience Market Neutral, Ltd.	77,778	54,445	$70,000.20
DAFNA LifeScience, Ltd.	111,111	77,778	$99,999.90
DAFNA LifeScience Select, Ltd.	200,000	140,000	$180,000.00
deBare, Charles	55,556	38,890	$50,000.40
de Bare, Mary	55,556	38,890	$50,000.40
Forkey, Richard E.	27,778	19,445	$25,000.20
Green, Mark	5,556	3,890	$5,000.40
Gutfreund, John Peter	11,112	7,779	$10,000.80
Iroquois Master Fund, Ltd.	111,112	77,779	$100,000.80
JBA Investments LLC	27,778	19,445	$25,000.20
Joseph N. Forkey and Heather C. Forkey JTTEN	22,223	15,557	$20,000.70
Karfunkel, George	111,112	77,779	$100,000.80
Kozersky, Lara	5,556	3,890	$5,000.40
Linda Gale Sampson Trust #2	27,778	19,445	$25,000.20
Loewen, Ondaatje, McCutcheon USA LTD (1)	–	194,446	$–
Major, Donald A.	27,778	19,445	$25,000.20
Matluck, Robert	27,778	19,445	$25,000.20
MHW Partners, L.P.	222,223	155,557	$200,000.70
Miles, Richard B.	11,112	7,779	$10,000.80
MJA Investments LLC	27,778	19,445	$25,000.20
NBCN INC. ITF AC 5VE158E GARRETT HERMAN (909369)	33,334	23,334	$30,000.60
Next Generation TS FBO Andrew Arno IRA 1663	111,112	77,779	$100,000.80
O'Connor, Pamela F.	111,112	77,779	$100,000.80
Riordan, Susan	11,112	7,779	$10,000.80
Saltiel, Howard	27,778	19,445	$25,000.20
Sarachek, Russell	27,778	19,445	$25,000.20
SAS Trust #1	27,778	19,445	$25,000.20
Schumsky, Arnold	83,334	58,334	$75,000.60
Smith, Jr., William W.	27,778	19,445	$25,000.20

Special Situations Fund III QP, L.P.	611,112	427,779	$550,000.80
Unterberg, Thomas I.	111,112	77,779	$100,000.80
TOTAL	2,777,795	2,138,921	$2,500,015.50

(1) We retained Loewen, Ondaatje, McCutcheon USA LTD as the exclusive placement agent for the offering. In addition to the payment of certain cash fees upon closing of the offering, we issued a warrant to the placement agent to purchase up to 194,446 shares of common stock on similar terms to the warrants issued in the offering. The placement agent warrant has an exercise price of $0.95 per share.

Private Placement of 10% Senior Secured Convertible Notes and Warrants on June 25, 2008

On June 25, 2008, we entered into a purchase agreement, as amended on December 11, 2008, with institutional and other accredited investors pursuant to which we sold a total of $600,000 of 10% Senior Secured Convertible Notes, referred to as the "Notes," that are convertible into a total of 480,000 shares of our common stock at a conversion rate of $1.25. We also issued warrants to purchase a total of 316,800 shares of our common stock at an exercise price of $1.75 per share, referred to as the "Warrants." Interest accrues on the Notes at a rate of 10% per year and is payable in cash upon the earlier of conversion or maturity of the Notes. The original maturity of the Notes mature was June 25, 2010 and the Warrants expire on June 25, 2015, subject to extension. By mutual agreement with us, the Investors amended the Notes on several dates to extend the "Stated Maturity Date" of the Notes. The conversion price of the Notes and the exercise price of the Warrants may be adjusted downward in the event we issue shares of common stock or securities convertible into common stock at a price lower than the conversion price of the Notes or exercise price of the Warrants at the time of issuance.

The selling stockholders that participated in the June 25, 2008 offering were as follows:

Selling stockholder	Warrants purchased in June 25, 2008 offering	Amount paid for Notes and warrants
Special Situations Fund III QP, L.P.	145,200	$ 275,000
Special Situations Private Equity Fund, L.P.	145,200	$ 275,000
Arnold Schumsky	26,400	$ 50,000
TOTAL	316,800	**$** 600,000

Pursuant to the purchase agreement, the Notes and Warrants were not convertible or exercisable until we implemented a 1 for 6 reverse stock split, which required the approval of our stockholders. On November 25, 2008, we entered into a Side Letter Agreement in which the investors agreed to change the ratio of the reverse split from 1 for 6 to 1 for 25. On December 11, 2008, we effected a 1 for 25 reverse split of our common stock.

Pursuant to a registration rights agreement entered into with the investors on June 25, 2008, we agreed to file a registration statement with the SEC by the earlier of (i) two days following the effectiveness of the amendment to implement a reverse stock split and (ii) December 15, 2008, to register the resale of the common stock issuable upon the conversion of the Notes and the exercise of the Warrants. We agreed to keep the registration statement effective until the earlier of (i) the date on which all the securities covered by the registration statement, as amended from time to time, have been sold and (ii) the date on which all the securities covered by such registration statement may be sold without restriction pursuant to Rule 144 of the Securities Act of 1933.

On December 15, 2011, we repaid Special Situations Fund III QP, L.P. a principal repayment of $275,000 and accrued interest of $95,486, for a total payment of $370,486. On December 15, 2011, we repaid Special Situations Private Equity Fund, L.P. a principal repayment of $275,000 and accrued interest of $95,486, for a total payment of $370,486. The Notes held by Special Situations Fund III QP, L.P. and Special Situations Private Equity Fund, L.P. have been satisfied in full and the obligations thereunder have been terminated.

On March 31, 2012, the remaining Investor, Arnold Schumsky, further amended his remaining Note to extend the “Stated Maturity Date” of the principal to July 31, 2012 and to modify the Note such that all accrued and unpaid interest on the Note up to and including March 31, 2012 shall be due on or before April 13, 2012, on the condition that we issue to him a warrant for 5,000 shares of common stock with an exercise price of $1.20 per share and a term of three years. On April 13, 2012, we repaid Mr. Schumsky a payment of the accrued interest of $18,819, and such payment included all accrued and unpaid interest on the Note up to and including March 31, 2012. On May 8, 2012, we issued Mr. Schumsky the warrant according to the terms described in the amended Note. On July 31, 2012, Mr. Schumsky further amended his remaining Note to extend the “Stated Maturity Date” of the principal to August 31, 2012. On

August 31, 2012, Mr. Schumsky further amended his remaining Note to extend the "Stated Maturity Date" of the principal to September 30, 2012.

On September 28, 2012, we repaid Mr. Schumsky the outstanding and accrued interest of $2,500 due under his Note and such payment satisfied its obligations in regards to the accrued interest due on the Note in full. On that same date, Mr. Schumsky presented the outstanding principal balance of the Note to us and agreed to exchange the $50,000 principal balance of his Note for participation in our September 2012 financing transaction, described in further detail above, and was issued units consisting of 55,555 shares of common stock and 38,889 warrants upon the same terms as the units sold in the September 2012 financing transaction. Accordingly, the Note held by Mr. Schumsky has been satisfied in full and the obligations thereunder have been terminated.

As a result of the issuance of warrants to purchase 100,000 shares of common stock in December 2010 and the September 28, 2012 private placement described above, certain anti-dilution provisions in the June 25, 2008 Warrants were triggered and we were obligated to issue an aggregate of 153,031 additional shares upon the exercise of the Warrants. Additionally, the exercise price of those Warrants was reduced from $1.74 to $1.18.

Private Placement of Common Stock and Warrants on February 1, 2007

On February 1, 2007, we entered into a purchase agreement with institutional and other accredited investors pursuant to which we sold a total of 400,000 shares of our common stock. We also issued warrants to purchase a total of 400,000 shares of our common stock at an exercise price of $8.00 per share. The warrants expired on February 1, 2012. The selling stockholders that participated in the February 1, 2007 offering were as follows:

Selling stockholder	**Common shares purchased in February 1, 2007 offering**	**Warrants purchased in February 1, 2007 offering**	**Amount paid for common stock and warrants**
Special Situations Fund III QP, L.P.	160,000	160,000	$1,000,000
Special Situations Private Equity Fund, L.P.	160,000	160,000	$1,000,000
Arnold Schumsky	24,000	24,000	$150,000
Joel Pitlor	40,000	40,000	$250,000
LaPlace Group LLC	16,000	16,000	$100,000
TOTAL	**400,000**	**400,000**	**$2,500,000**

As part of the February 1, 2007 private placement, we entered into a registration rights agreement pursuant to which we agreed to file a registration statement with the SEC within forty-five days after the closing date to register the resale of the shares of common stock and the shares of common stock issuable upon exercise of the warrants. We also agreed to keep the registration statement effective until the earlier of (i) such time as all of the shares covered by the registration statement have been sold or (ii) the date on which the shares may be sold pursuant to Rule 144 of the Securities Act of 1933. The SEC declared the registration statement registering these shares effective on March 23, 2007. In the event additional shares become issuable upon the exercise of the warrants, we agreed to register such additional shares to the extent that such shares are not covered by an effective registration statement.

As our previous registration statements for the February 1, 2007 and the June 25, 2008 transactions have become stale, we are required to register the securities again. The investors who participated in the February 1, 2007 and the June 25, 2008 transactions and are named as "Selling Security Holders" in this prospectus are as follows:

Selling stockholder	Common shares purchased in the February 1, 2007 transaction	Shares that may be issued upon exercise of warrants acquired in February 1, 2007 transaction	Shares that may be issued upon exercise of warrants acquired in June 25, 2008 transaction	Additional warrant shares issued due to anti-dilution provisions of warrants acquired in June 25, 2008 transaction	Total
Special Situations Fund III QP, L.P.	160,000	160,000 (1)	145,200	70,139	375,339
Special Situations Private Equity Fund, L.P.	160,000	160,000 (1)	145,200	70,139	375,339
Arnold Schumsky	24,000	24,000 (1)	26,400	12,753	63,153
TOTAL	344,000	344,000 (1)	316,800	153,031	813,831

* All information set forth herein gives effect to a 1 for 25 reverse stock split on December 11, 2008.

(1) The warrants issued in the February 1, 2007 transaction expired, according to the terms of the warrants, on February 1, 2012 without being exercised.

USE OF PROCEEDS

We will not receive any proceeds from the sale or other disposition of our common stock by selling stockholders. We may receive proceeds from the exercise of warrants. We intend to use the proceeds from the exercise of warrants, if any, for working capital.

MARKET FOR THE SECURITIES

Our common stock is quoted on the OTCQB under the symbol “PEYE.”

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RISK FACTORS

Risks Related to Our Business

An investment in our common stock involves a high degree of risk. Before making an investment decision, you should give careful consideration to the following risk factors, in addition to the other information included in this Annual Report. If any of the following risks actually occur, our business, financial condition or results of operations could be materially and adversely affected and you may lose some or all of your investment.

The current worldwide economic downturn could have a negative impact on our business, operating results and financial condition.

If the economic downturn continues, our customers may delay, reduce or cancel their purchases of our products, particularly if they or their customers have difficulty obtaining credit, which could then reduce our revenues. The economic downturn could increase competition which could have the effect of reducing our prices. We could incur losses if a customer's business fails and they are unable to pay us, or pay us on a timely basis. Likewise, if our suppliers have difficulty in obtaining credit or in operating their businesses, they may not be able to provide us with the materials we use to manufacture our products. These actions could result in reduced revenues and higher operating costs, and have an adverse effect on our results of operations and financial condition.

We rely on a small number of customers who may not consistently purchase our products in the future and if we lose any one of these customers, our revenues may decline.

In the fiscal year ended June 30, 2012, our two largest customers represented approximately 34% and 22%, respectively, of our total revenues. In the fiscal year ended June 30, 2011, our three largest customers represented approximately 24%, 22% and 17%, respectively, of our total revenues. No other customer accounted for more than 10% of our revenues during those periods. At June 30, 2012, receivables from our two largest customers were 31% and 27%, respectively, of the total accounts receivable.

In the future, a small number of customers may continue to represent a significant portion of our total revenues in any given period. These customers may not consistently purchase our products at a particular rate over any subsequent period. A loss of any of these customers could adversely affect our revenues.

Negative economic conditions increase the risk that we could suffer unrecoverable losses on our customers' accounts receivable which would adversely affect our financial results.

At June 30, 2012, receivables from our two largest customers were 31% and 27%, respectively, of the total accounts receivable. While we believe we have a varied customer base and have experienced strong collections in the past, if current economic conditions fail to improve we may experience changes in our customer base, including reductions in purchasing commitments, which could also have a material adverse effect on our revenues and liquidity. We have not purchased insurance on our accounts receivable balances.

We rely heavily upon the talents of our Chief Executive Officer, the loss of whom could severely damage our business.

Our performance depends to a large extent on a small number of key scientific, technical, managerial and marketing personnel. In particular, we believe our success is highly dependent upon the services and reputation of our Chief Executive Officer, Dr. Joseph N. Forkey. The loss of Dr. Forkey's services could severely damage our business.

Dr. Forkey provides highly valuable contributions to our capabilities in optical instrument development, in management of new technology and in potentially significant longer-term initiatives in biophysics and biomedical instrumentation.

We must continue to be able to attract employees with the scientific and technical skills that our business requires and if we are unable to attract and retain such individuals, our business could be severely damaged.

Our ability to attract employees with a high degree of scientific and technical talent is crucial to the success of our business. There is intense competition for the services of such persons, and we cannot guarantee that we will be able to attract and retain individuals possessing the necessary qualifications. If we cannot attract such individuals, we may not be able to produce our products and our business could be damaged.

We are subject to a high degree of regulatory oversight and, if we do not continue to receive the necessary regulatory approvals, our revenues may decline.

The FDA allows us to market the medical products we currently sell in the United States. However, prior FDA approval may be required before we can market additional medical products that we may develop in the future. We may also seek to sell current or future medical products in a manner that requires us to obtain FDA permission to market such products. We may also require the regulatory approval or license of other federal, state or local agencies or comparable agencies in other countries.

We may lose the FDA’s permission to market our current products or may not obtain the necessary regulatory permission, approvals or licenses for the marketing of any of our future products. Also, we cannot predict the impact on our business of FDA regulations or determinations arising from future legislation or administrative action. If we lose the FDA’s permission to market our current products or we do not obtain regulatory permission to market our future products, our revenues may decline and our business may be harmed.

We face risks inherent in product development and production under fixed price purchase orders and these purchase orders may not be profitable over time.

A portion of our business has been devoted to research, development and production under fixed price purchase orders. For our purposes, a fixed price purchase order is any purchase order under which we will provide products or services for a fixed price over an extended period of time, usually six months or longer. Fixed price purchase orders represented approximately 25% to 50% of our total revenues during the last several years. We expect that revenues from fixed price purchase orders will continue to represent a significant portion of our total revenues in future fiscal years.

Because they involve performance over time, we cannot predict with certainty the expenses involved in meeting our obligations under fixed price purchase orders. Therefore, we can never be sure at the time we enter into any single fixed price purchase order that such purchase order will be profitable for us.

Third parties may infringe on our intellectual property and, as a result, we could incur significant expense in protecting our patents or not have sufficient resources to protect them.

We utilize a number of licensed patents that are important to our business. In July 2011, we entered into an asset purchase agreement with Intuitive Surgical Operations, Inc., in which we received $2.5 million in connection with the sale of certain intellectual property. Pursuant to the agreement, we agreed to assign to Intuitive Surgical all of our currently issued and non-expired patents and pending patent applications and, in return, Intuitive Surgical agreed to grant to us a royalty-free, worldwide license to these patents in fields outside of medical robotics.

Although we are not currently aware of any past or present infringements of our patents, we plan, jointly with Intuitive Surgical, to protect these patents from infringement and obtain additional patents whenever feasible. To this end, we have obtained confidentiality agreements from our employees and consultants and others who have access to the design of our products and other proprietary information. Protecting and obtaining patents, however, is both time consuming and expensive. We therefore may not have the resources necessary to assert all potential patent infringement claims or pursue all patents that might be available to us. If our competitors or other third parties infringe on our patents, our business may be harmed.

Third parties may claim that we have infringed on their patents and, as a result, we could be prohibited from using all or part of any technology used in our products.

Should third parties claim a proprietary right to all or part of any technology that we use in our products, such a claim, regardless of its merit, could involve us in costly litigation. If successful, such a claim could also result in us being unable to freely use the technology that was the subject of the claim, or sell products embodying such technology. If we engage in litigation, our expenses may increase and our business may be harmed. If we are prohibited from using a particular technology in our products, our revenues may decline and our business may be harmed.

We depend on the availability of certain key supplies and services that are available from only a few sources and if we experience difficulty with a supplier, we may have difficulty finding alternative sources of these supplies or services.

We require certain key supplies to develop and manufacture our products, in particular precision grade optical glass, which is available from only a few sources, each of which is located outside the United States. Additionally, we rely on outside vendors to grind and polish certain of our lenses and other optical components, such as prisms and windows. Based upon our ordering experience to date, we believe the materials and services required for the production of our products are currently available in sufficient quantities. Our requirements are small relative to the total supply, and we are not currently encountering problems with availability. However, this does not mean that we will continue to have timely access to adequate supplies of essential materials and services in the future or that supplies of these materials and services will be available on satisfactory terms when the need arises. Our business could be severely damaged if we become unable to procure these essential materials and services in adequate quantities and at acceptable prices.

From time to time, subcontractors may produce certain of our products for us, and our business is subject to the risk that these subcontractors fail to make timely delivery. Our products and services ar