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VASOMEDICAL INC  
Form 10KSB/A  
September 29, 2008

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UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, DC 20549

FORM 10-KSB/A  
Amendment No. 1

ANNUAL REPORT UNDER SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 For the fiscal year ended May 31, 2008

TRANSITION REPORT UNDER SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File No. 0-18105  
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VASOMEDICAL, INC.  
(Exact name of registrant as specified in its charter)

Delaware  
(State or other jurisdiction of  
incorporation or organization)

11-2871434  
(IRS Employer  
Identification No.)

180 Linden Avenue, Westbury, New York  
(Address of Principal Executive Offices)

11590  
(Zip Code)

Registrant's telephone number, including area code: (516) 997-4600

Securities registered under Section 12(b) of the Act: None

Securities registered under Section 12(g) of the Act:  
Common Stock, \$.001 par value  
(Title of Class)

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.

Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act.

Yes  No

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

Yes  No

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer.

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Large Accelerated Filer [ ] Accelerated Filer [ ] Non-Accelerated Filer [X]

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes [ ] No [ X ]

The aggregate market value of the voting and non-voting common equity held by non-affiliates of the registrant based on the closing sale price of \$0.08 as of September 24, 2008, was approximately \$4,924,255. Shares of common stock held by each officer and director and by each person who owns 5% or more of the outstanding common stock have been excluded in that such persons may be deemed to be affiliates. The determination of affiliates status is not necessarily a conclusive determination for other purposes.

At September 24, 2008, the number of shares outstanding of the issuer's common stock was 93,868,004.

DOCUMENTS INCORPORATED BY REFERENCE

None

EXPLANATORY NOTE

Vasomedical, Inc. (the "Company," "we," "us," or "our") is filing this Amendment No. 1 on Form 10-KSB/A to our Report on Form 10-KSB for the fiscal year ended May 31, 2008 (the "Report") for the purpose of including information that was to be incorporated by reference from our definitive proxy statement pursuant to Regulation 14A of the Securities Exchange Act of 1934, as amended, (the "Exchange Act"). We will not file our proxy statement within 120 days of our fiscal year ended May 31, 2008, and are, therefore, amending and restating in their entirety Items 9, 10, 11, 12 and 14 of Part III of the Report.

Except as described above, no other amendments are being made to this Report. This Form 10-KSB/A does not reflect events occurring after the August 29, 2008 filing of our Report or modify or update the disclosure contained in the Report in any way other than as required to reflect the amendments discussed above and reflected below.

This amendment should be read in conjunction with our Annual Report for the year ended May 31, 2008 filed on Form 10-KSB on August 29, 2008.

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## PART III

### ITEM 9 - DIRECTORS, EXECUTIVE OFFICERS, PROMOTERS AND CONTROL PERSONS; COMPLIANCE WITH SECTION 16(a) OF THE EXCHANGE ACT

#### Directors of the Registrant

As of September 24, 2008, the members of our Board of Directors are:

Name of Director	Age	Principal Occupation	
Abraham E. Cohen (4)	72	Chairman of the Board and Director	June
Derek Enlander (2)	60	Director	July
Joseph Giacalone (1)	44	Director	Decem
John C.K. Hui, PhD (3)	62	President, Chief Executive Officer, Chief Technology Officer and Director	Febru
Jun Ma (2)	45	Director	June
Behnam Movaseghi	55	Director	July
Photios T. Paulson (1)(2)	69	Director	April
Simon Srybnik (3)	92	Director	June
Martin Zeiger (1)(2)(3)	71	Director	Octob

The following is a brief account of the business experience for at least the past five years of our directors:

Abraham E. Cohen has been our Chairman of the Board since June 1994 and is presently an independent consultant. He retired in 1992 as Senior Vice President of Merck & Co., Inc., a position he was elected to in 1985. From 1979 to 1989, Mr. Cohen was also President of Merck Sharp & Dohme International, a division of Merck & Co., Inc. Mr. Cohen is a director of the following public companies: Akzo Nobel Nv., Chugai Pharmaceutical Co., Ltd., Neurobiological Technologies, Inc. and Teva Pharmaceutical Industries, Ltd.

Joseph A. Giacalone, a certified public accountant, has been a director since December 2007 and is Chairman of our Audit Committee. He is Director of Finance and Accounting of Griffon Corporation since December 2007. He was Director of Finance and Accounting of P & F Industries, Inc. from August 2004 to October 2007. He was employed by Vasomedical, Inc. from February 1993 through August 2003, serving as Chief Financial Officer from January 2000 to August 2003. From 1983 to 1993, Mr. Giacalone was employed by the international accounting firm of Grant Thornton LLP.

Derek Enlander M.D. has been a director since July 2007. He is an attending physician at the Mount Sinai Medical Center New York, and a clinical instructor at the Mount Sinai Medical School. He is in private practice in Internal Medicine in Manhattan. He is the author of six books on medicine and over twenty research papers. He has invented a new drug to treat immune dysfunction and is the President of Computer Medica Inc., where he invented a Medical History card to store a patient's medical files including X-rays, MRIs, etc. on a credit card size computer readable card.

John C.K. Hui, PhD has been our President and Chief Executive Officer since

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April 2007 and Chief Technology Officer, as well as, a director since February 1995. From February 1995 until April 2007, he was a Senior Vice President. Dr. Hui has been an Assistant Professor in the Department of Surgery and Division of Cardiology at the State University of Stony Brook, New York since 1978. He has also been a scientist in the medical department of Brookhaven National Laboratories. Dr. Hui was CEO and president of and a principal stockholder in Vasogenics, Inc. at the time of its acquisition by us in January 1995.

Jun Ma, PhD has been a director since June 2007 and is presently an independent consultant. Dr. Jun Ma has been an associate professor in engineering at New York Institute of Technology since 1997 and an assistant professor from 1993 to 1997. Currently he also provides consulting services to several companies, including Kerns Manufacturing Corp. and Living Data Technology Corp.

Behnam Movaseghi has been a director since July 2007. Mr. Movaseghi has been treasurer of Kerns Manufacturing Corporation since 2000, and controller from 1990 to 2000. For approximately ten years prior thereto, Mr. Movaseghi was a tax and financial consultant. Mr. Movaseghi is a Certified Public Accountant.

Photios T. Paulson has been a director since April 2000 and served as our Chief Executive Officer from October 2002 through June 2003 and from March to October 2004. Mr. Paulson has been an advisor to the health-care industry and was Vice President of bioMerieux N.A. Inc. from 1995 to 2002. Between 1992 and 1995, Mr. Paulson was Chairman of bioMerieux Vitek Inc. Between 1987 and 1990, he was Senior Advisor, Health Care Industry, for Prudential Securities. Mr. Paulson previously held senior positions with Becton Dickinson and Company through 1987. Mr. Paulson is a director of bioMerieux N.A. Inc. and Silliker Group Inc.

Simon Srybnik has been a director since June 2007 and is Chairman of the Board of Kerns Manufacturing Corp. and Living Data Technology Corp. A lifetime entrepreneur and industrialist, Mr. Srybnik has founded and managed many companies in various industries including machinery and process equipment, aerospace and defense, biology and healthcare. Mr. Srybnik is also a director and Chairman of the Board of Life Sciences, Inc.

Martin Zeiger has been a director since October 2001. He is an independent consultant to the pharmaceutical industry. Mr. Zeiger was Senior Vice President of Strategic Business Development for Barr Laboratories, a drug manufacturer, from 1999 through August 2003. From 1987 through 1999, Mr. Zeiger was Executive Vice President and General Counsel for Rugby Laboratories. In 1993 Marion Merrill Dow acquired Rugby Laboratories. Mr. Zeiger was a Vice President of Marion Merrill Dow, Inc. and its successor, Hoechst Marion Roussell, Inc. Mr. Zeiger is a founding director of the Larry King Cardiac Foundation and was a member of the Heritage Board of Directors of the American Heart Association in New York.

Committees of the Board of Directors

Audit Committee and Audit Committee Financial Expert

The Board has a standing Audit Committee which held four meetings during the fiscal year ended May 31, 2008 ("fiscal 2008"). The Board has affirmatively determined that each director who serves on the Audit Committee is independent, as the term is defined by applicable Securities and Exchange Commission ("SEC") rules. During fiscal 2008 the Audit Committee consisted of Joseph A. Giacalone, who has served as the committee chair since his appointment in December 2007, Photios T. Paulson, who served as the committee chair during fiscal 2008 until Mr. Giacalone's appointment and Martin Zeiger. The members of the Audit Committee have substantial experience in assessing the performance of companies, gained as members of the Company's Board of Directors and Audit Committee, as

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well as by serving in various capacities in other companies or governmental

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agencies. However, Mr. Giacalone keeps current on generally accepted accounting principles and is considered to be a financial expert as that term is defined in applicable regulations. As a result, they each have an understanding of financial statements.

The Audit Committee regularly meets with our independent registered public accounting firm outside the presence of management.

### Compensation Committee

Our Compensation Committee annually establishes, when required, subject to the approval of the Board of Directors and any applicable employment agreements, the salaries that will be paid to our executive officers during the coming year, as well as administers our stock-based benefit plans. There were no meetings of this committee held in fiscal 2008. During fiscal 2008, the Compensation Committee consisted of Martin Zeiger, who serves as the committee chair, Derek Enlander, Jun Ma and Photios T. Paulson. None of these persons were our officers or employees during fiscal 2008 or, except as otherwise disclosed, had any relationship requiring disclosure in this Proxy Statement.

### Corporate Governance Committee

The Board of Directors has established a Corporate Governance Committee. There were no meetings of this committee held in fiscal 2008. During fiscal 2008, the Corporate Governance Committee consisted of John C.K. Hui, who serves as committee chair, Simon Syrbnik and Martin Zeiger. The Corporate Governance Committee monitors developments in corporate governance principles and other corporate governance matters and makes recommendations to the Board of Directors regarding the adoption of additional corporate governance principles.

### Compliance with Section 16(a) of The Securities Exchange Act of 1934 - Beneficial Ownership Reporting Compliance

Section 16(a) of the Exchange Act requires directors, executive officers and persons who beneficially own more than 10% of our common stock (collectively, "Reporting Persons") to file initial reports of ownership and reports of changes in ownership of our common stock with the SEC. Reporting Persons are required by SEC regulations to furnish us with copies of all Section 16(a) reports they file. To our knowledge, based solely on our review of the copies of such reports received or written representations from certain Reporting Persons that no other reports were required, we believe that during fiscal 2008, all Reporting Persons timely complied with all applicable filing requirements.

### Corporate Governance - Code of Ethics

We have adopted a Corporate Code of Business Ethics (the "Code") that applies to all employees, including our principal executive officer, principal financial officer, and directors of the Company. The Code is broad in scope and is intended to foster honest and ethical conduct, including accurate financial reporting, compliance with laws and the like. If any substantive amendments are made to the Code or if there is any grant of waiver, including any implicit waiver, from a provision of the Code to our Chief Executive Officer or Chief Financial Officer, we will disclose the nature of such amendment or waiver in a Current Report on Form 8-K.

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### ITEM 10 - EXECUTIVE COMPENSATION

#### Executive Officers of the Registrant

Name of Officer	Age	Position held with the Company
John C.K. Hui, PhD	62	President, Chief Executive Officer, Chief Technology Officer and Director
Tricia Efstathiou	37	Chief Financial Officer

The following table sets forth the annual and long-term compensation of our Chief Executive Officer and each of our most highly compensated officers other than the Chief Executive Officer who were serving as executive officers at the end of the last completed fiscal year, and certain former executive officers as required under SEC rules (collectively, the "Named Executive Officers") for services rendered for the fiscal 2008 and year ended May 31, 2007 ("fiscal 2007").

Summary Compensation Table

Name and Principal Position	Year	Salary (\$) (2)	Bonus (\$)	Stock Awards (\$)	Option Awards (\$) (3)	Non-Equity Incentive Plan Compensation (\$)	Non-Deferred Compensation (\$)
John C. K. Hui (4) President and CEO	2008	\$187,485	--	--	--	--	--
	2007	\$162,600	--	--	--	--	--
Senior VP, CTO (CEO)	2008	--	--	--	--	--	--
	2007	\$238,333	--	--	--	--	--
Tricia Efstathiou (6) CFO	2008	\$132,600	--	--	--	--	--
	2007	\$ 86,667	--	--	\$ 18,000	--	--
Thomas W. Fry (7) CFO	2008	--	--	--	--	--	--
	2007	\$ 69,253	--	--	--	--	--

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#### Outstanding Equity Awards at Last Fiscal Year End

The following table provides information concerning outstanding options, unvested stock and equity incentive plan awards for our Named Executive Officers during fiscal 2008:

#### Option Awards

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Name	Number of Securities Underlying Unexercised Options - Exercisable	Number of Securities Underlying Unexercised Options - Unexercisable	Equity Incentive Plan Awards:			Number of Shares or Units of Stock That Have Not Vested
			Number of Underlying Unexercised Options	Option Exercise Price	Option Expiration Date	
John C.K.	375,000	--	--	\$1.91	03/11/2008	--
Hui, PhD	70,000	--	--	\$0.88	01/04/2009	--
	50,000	--	--	\$3.96	07/11/2011	--
	50,000	--	--	\$1.11	07/12/2014	--
	29,558	--	--	\$0.57	06/22/2015	--
	40,000	--	--	\$0.58	09/20/2015	--
	200,000	--	--	\$0.22	04/03/2016	--
Tricia	15,000	--	--	\$4.28	06/23/2010	--
Efstathiou	30,000	--	--	\$3.96	07/10/2011	--
	30,000	--	--	\$0.91	03/27/2013	--
	20,000	--	--	\$1.11	07/12/2014	--
	15,333	--	--	\$0.57	06/22/2015	--
	15,000	--	--	\$0.58	09/20/2015	--
	133,333	66,667	66,667	\$0.09	11/01/2016	--

Equity Compensation Plan Information

We maintain various stock plans under which options vest and shares are awarded at the discretion of our Board of Directors or its Compensation Committee. The purchase price of the shares under the plans and the shares subject to each option granted is not less than the fair market value on the date of the grant. The term of each option is generally five years and is determined at the time of the grant by our board of directors or the compensation committee. The participants in these plans are officers, directors, employees, and consultants of the Company and its subsidiaries and affiliates.

The following information is provided about our current stock option plans:

1997 Stock Option Plan

In December 1997, our stockholders approved the 1997 Stock Option Plan (the "1997 Plan") for our officers, directors, employees, and consultants, for which we have reserved, as amended, an aggregate of 2,800,000 shares of common stock. The 1997 Plan provides that it will be administered by a committee of our Board

of Directors and that the committee will have full authority to determine the identity of the recipients of the options and the number of shares subject to each option. Options granted under the 1997 Plan may be either incentive stock options or non-qualified stock options. The option price shall be 100% of the fair market value of the common stock on the date of the grant (or in the case of incentive stock options granted to any individual principal stockholder who owns stock possessing more than 10% of the total combined voting power of all of our voting stock, 110% of such fair market value). The term of any option may be fixed by the committee but in no event shall exceed ten years from the date of

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grant. Options are exercisable upon payment in full of the exercise price, either in cash or in common stock valued at fair market value on the date of exercise of the option. The term for which options may be granted under the 1997 Plan expired August 6, 2007. At May 31, 2008, 3,141,168 options had been granted (including options previously granted but subsequently cancelled), of which 512,668 are outstanding under the 1997 Plan.

### 1999 Stock Option Plan

In July 1999, our Board of Directors authorized the 1999 Stock Option Plan (the "1999 Plan") for our officers, directors, employees, and consultants, for which we have reserved, as amended, an aggregate of 5,000,000 shares of common stock. The 1999 Plan provides that it will be administered by a committee of our Board of Directors and that the committee will have full authority to determine the identity of the recipients of the options and the number of shares subject to each option. Options granted under the 1999 Plan may be either incentive stock options or non-qualified stock options. The option price shall be 100% of the fair market value of the common stock on the date of the grant (or in the case of incentive stock options granted to any individual principal stockholder who owns stock possessing more than 10% of the total combined voting power of all of our voting stock, 110% of such fair market value). The term of any option may be fixed by the committee but in no event shall exceed ten years from the date of grant. Options are exercisable upon payment in full of the exercise price, either in cash or in common stock valued at fair market value on the date of exercise of the option. The term for which options may be granted under the 1999 Plan expires July 12, 2009. At May 31, 2008, 9,151,932 options had been granted, (including options previously granted but subsequently cancelled), of which 3,266,470 are outstanding under the 1999 Plan.

### 2004 Stock Option and Stock Issuance Plan

In October 2004, our stockholders approved the 2004 Stock Option and Stock Issuance Plan (the "2004 Stock Plan") for our officers, directors, employees, and consultants, for which we reserved an aggregate of 2,500,000 shares of common stock. The 2004 Stock Plan is administered by a committee of our Board of Directors, which has full authority to determine the identity of the recipients of the options and the number of shares subject to each option. The 2004 Stock Plan is divided into two separate equity programs: an option grant program and a stock issuance program. Options granted under the 2004 Stock Plan shall be non-qualified or incentive stock options and the exercise price is the fair market value of the common stock on the date of grant except that for incentive stock options it shall be 110% of the fair market value if the participant owns 10% or more of our common stock. Under the stock issuance program, the purchase price per share shall be fixed by the Board of Directors or committee but cannot be less than the fair market value of the common stock on the issuance date. Payment for the shares may be made in cash or check payable to us, or for past services rendered to us and all shares of common stock issued thereunder shall vest upon issuance unless otherwise directed by the board or committee. The number of shares issuable is also subject to adjustments upon the occurrence of certain events, including stock dividends, stock splits, mergers, consolidations, reorganizations, recapitalizations, or other capital adjustments. At May 31, 2008, 2,918,045 shares had been granted (including options previously granted but subsequently cancelled), of which options to purchase 1,681,072 shares are outstanding under the 2004 Stock Plan.

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### 401(k) Plan

In April 1997, we adopted the Vasomedical, Inc. 401(k) Plan to provide retirement benefits for our employees. As allowed under Section 401(k) of the Internal Revenue Code, the plan provides tax-deferred salary deductions for



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eligible employees. Employees are eligible to participate in the next quarter enrollment period after employment. Participants may make voluntary contributions to the plan up to 100% of their compensation subject to 401(k) maximum limitations. In fiscal years 2008 and 2007, the Company made discretionary contributions of approximately \$9,000 and \$15,000, respectively, to match a percentage of employee contributions.

### Employment Agreements

As of May 31, 2008, the Company does not have any employment agreements.

### Director's Compensation

Non-employee Directors received a fee of \$1,500 for each Board of Directors and Committee meetings attended and \$2,500 for each Audit Committee meeting attended, payable at each director's option in cash or common stock. Beginning for fiscal 2008, Directors will also receive annually, \$15,000 of common stock valued at the fair market value of the common stock on the date of grant for serving as a board member during the fiscal year. New non-employee directors also received one of the following during fiscal 2008:

- o A grant of a non-qualified stock option to purchase 150,000 shares which vested immediately. or
- o A grant of 150,000 shares of common stock.

The following table provides the compensation earned by our non-employee directors for fiscal 2008:

Director Compensation						
Name	Fees Earned or Paid in Cash (\$)	Stock Awards (\$) (1)	Option Awards (\$)	Non-equity Incentive Plan Compensation (\$)	Nonqualified Deferred Compensation Earnings (\$)	C
Abraham E. Cohen	\$ 4,500	\$16,500	--	--	--	
Derek Enlander	\$ 4,500	\$15,000	\$14,475	--	--	
Joseph Giacalone	\$ 8,000	\$24,000	--	--	--	
Jun Ma	\$ 6,000	\$15,000	\$14,475	--	--	
Behnam Movaseghi	\$ 4,500	\$15,000	\$14,475	--	--	
Photios T. Paulson	\$16,000	\$15,000	--	--	--	
Simon Srybnik	\$ 6,000	\$15,000	\$14,475	--	--	
Martin Zeiger	\$16,000	\$15,000	--	--	--	

### Limitation on Liability of Officers and Directors

We have entered into indemnification agreements with each of our current

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officers and directors pursuant to which we have agreed, among other things, to indemnify these officers and directors to the fullest extent permitted by Delaware law.

### Compensation Committee Interlocks and Insider Participation

During fiscal 2008, our Compensation Committee consisted of Martin Zeiger, who serves as the committee chair, Derek Enlander, Jun Ma and Photios T. Paulson. None of these persons were our officers or employees during fiscal 2008 or, except as otherwise disclosed, had any relationship requiring disclosure in this Proxy Statement.

### ITEM 11 - SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

The following table sets forth the beneficial ownership of shares of our common stock as of September 24, 2008 of (i) each person known by us to beneficially own 5% or more of the shares of outstanding common stock, based solely on filings with the SEC, (ii) each of our executive officers and directors, and (iii) all of our executive officers and directors as a group. Except as otherwise indicated, all shares are beneficially owned, and investment and voting power is held by the persons named as owners.

Name of Beneficial Owner	Common Stock Beneficially Owned (1)
Abraham E. Cohen ** .....	1,785,254
Tricia Efstathiou ** .....	341,162
Derek Enlander ** .....	400,000
Joseph Giacalone ** .....	400,000
John C. K. Hui, PhD (3) ** .....	1,228,880
Jun Ma ** .....	400,000
Benham Movaseghi ** .....	400,000
Photios T. Paulson ** .....	870,000
Simon Srybnik (4) (5) ** .....	33,105,126
Louis Srybnik (4) (5) .....	32,705,126
Martin Zeiger ** .....	565,000

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Includes beneficial ownership of the following numbers of shares that may be acquired within 60 days of September 24, 2008 pursuant to a warrant awarded under the Securities Purchase Agreement with Kerns Manufacturing Corp. ("Kerns") and stock options awarded under our stock option plans:

Abraham E. Cohen	670,000	Behnam Movaseghi	150,000
Tricia Efstathiou	325,333	Photios T. Paulson	595,000
Derek Enlander	150,000	Simon Srybnik	4,435,714
John C. K. Hui, PhD	439,558	Martin Zeiger	265,000
Jun Ma	150,000	Directors and executive officers as a group	7,180,605

2. Applicable percentages are based on 93,868,004 shares of common stock

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- outstanding on September 24, 2008, adjusted as required by rules promulgated by the SEC, which does not include stock awards to the Board of Directors for fiscal 2008 compensation earned that were approved but not issued as of September 24, 2008. The beneficially owned shares include stock awards to the Board of Directors for fiscal 2008 compensation that were approved and earned but not issued by September 24, 2008.
3. Includes 789,322 shares that are held in a trust for the benefit of Dr. Hui's child. Dr. Hui and his wife are the trustees of this trust.
  4. Simon Srybnik and his brother Louis Srybnik are the sole directors and the Chairman of the Board and President, respectively of Kerns, which is the record holder of 25,714,286 shares (of which 4,285,714 shares are not issuable until a restricted warrant is exercised). They are the sole shareholders of Kerns, each holding 50% of the shares. The reporting persons, accordingly, share voting and dispositive powers over the 21,428,572 shares held by Kerns and share dispositive power over the 4,285,714 shares underlying the restricted warrant. As a result, they may be deemed to be the co-beneficial owners of an aggregate of 25,714,286 shares. Mr. Srybnik also holds sole dispositive power over the 150,000 shares underlying the option he was granted upon being appointed to the Board of Directors, as well as 250,000 shares of common stock awarded to the Board of Directors for fiscal 2008 compensation earned that were approved but not issued as of September 24, 2008.
  5. Simon Srybnik and his brother Louis Srybnik are the sole directors and officers of Living Data Technology Corporation ("Living Data"). They also each own 35% of the outstanding shares of Living Data. The reporting persons, accordingly, share voting and dispositive powers over the 6,990,840 shares of our common stock owned by Living Data and, as a result, may be deemed to be the co-beneficial owners thereof.

### ITEM 12 - CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

On June 21, 2007 we entered into a Securities Purchase Agreement with Kerns. Concurrently with our entry into the Securities Purchase Agreement, we also entered into a Distribution Agreement and a Supplier Agreement with Living Data, an affiliate of Kerns.

We sold to Kerns, pursuant to the Securities Purchase Agreement, 21,428,572 shares of our common stock at \$.07 per share for an aggregate of \$1,500,000, as well a five-year warrant to purchase 4,285,714 shares of our common stock at an initial exercise price of \$.08 per share (the "Warrant"). The agreement further provided for the appointment to our Board of Directors of two representatives of Kerns. In furtherance thereof, Jun Ma and Simon Srybnik, Chairman of both Kerns and Living Data, have been appointed members of our Board of Directors. Pursuant to the Distribution Agreement, we have become the exclusive distributor in the United States of the AngioNew ECP systems manufactured by Living Data. As additional consideration for such agreement, we agreed to issue an additional

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6,990,840 shares of our common stock to Living Data. Pursuant to the Supplier Agreement, Living Data now is the exclusive supplier to us of the ECP therapy systems that we market under the registered trademark EEC(R). The Distribution Agreement and the Supplier Agreement each have an initial term extending through May 31, 2012.

Pursuant to a Registration Rights Agreement, we granted to Kerns and Living Data, subject to certain restrictions, "piggyback registration rights" covering the shares sold to Kerns as well as the shares issuable upon exercise of the Warrant and the shares issued to Living Data.

On July 10, 2007, the Board of Directors appointed Behnam Movaseghi, Treasurer and Chief Financial Officer of Kerns Manufacturing Corporation, to our

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Board of Directors.

As affiliates of Living Data and Kerns, Mr. Ma, Mr. Movaseghi and Mr. Srybnik have each been directly involved in the transactions between Living Data or Kerns, on the one hand, and the Company, on the other hand, with respect to the Securities Purchase Agreement, the Distribution Agreement and the Supplier Agreement, as well as providing consulting services to the Company with no compensation.

During fiscal 2008, the Company purchased ECP therapy systems under the Supplier Agreement for \$120,000 from Living Data, which was paid in full by the Company as of June 2008. In addition, Living Data purchased \$5,000 worth of ECP therapy system components from the Company, which was paid in full by Living Data as of June 2008.

During fiscal 2009, Living Data assigned to the Company all of its rights and interests under its Distributorship Agreement with a corporation organized and existing under the laws of the People's Republic of China that manufactures Ambulatory Blood Pressure Monitors, Ambulatory ECG Recorders and Holter & ABPM Combiner Recorders, for \$20,000 payable to Living Data based on certain terms and conditions. The Company has also agreed to pay to Living Data 5% of the selling price or 5% of the cost of all goods sold (whichever is higher), and 5% of the cost of all goods transferred but not sold under the Assignment Agreement to Living Data based on sales of this equipment. The Company intends to sell these systems in the United States and other countries subject to obtaining regulatory clearance.

During fiscal 2009, Living Data assigned to the Company all of its rights and interests under its Distributorship Agreement with a corporation organized and existing under the laws of the People's Republic of China that manufactures Ultrasound Scanners, for \$20,000 payable to Living Data based on certain terms and conditions. The Company has also agreed to pay to Living Data 5% of the selling price or 5% of the cost of all goods sold (whichever is higher) and 5% of the cost of all goods transferred but not sold under the Assignment Agreement to Living Data based on sales of this equipment. The Company intends to sell these systems in the United States and other countries subject to obtaining regulatory clearance.

In July of 2008, the Company agreed to purchase ECP therapy systems under its Distributorship Agreement with Living Data for \$360,000 payable over 18 months.

Further, Kerns provides the Company, free of charge, part-time use of one of its Information Technology (IT) employees as well one of their IT consultants to provide the Company with IT and database support services. In addition, a clinical applications support specialist and a service engineer from Living Data may be used by the Company to provide customers with clinical training and technical service.

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### ITEM 14 - PRINCIPAL ACCOUNTANT FEES AND SERVICES

MILLER ELLIN & COMPANY, LLP are our independent registered public accounting firm and performed the audits of our consolidated financial statements for fiscal years 2008 and 2007. The following table sets forth all fees for the fiscal years ended May 31, 2008 and 2007:

2008	2007
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Jun Ma

/s/Behnam Movaseghi Director  
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Behnam Movaseghi

/s/Photios T. Paulson Director  
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Photios T. Paulson

/s/Simon Srybnik Director  
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Simon Srybnik

/s/Martin Zeiger Director  
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Martin Zeiger