UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

FORM 10-Q

(Mark One)

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

For the quarterly period ended March 31, 2021

OR

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

For the transition period from to

Commission File Number: 001-35518

SUPERNUS PHARMACEUTICALS, INC.
(Exact name of registrant as specified in its charter)

Delaware			**20-2590184**
(State or other jurisdiction of incorporation or organization)			(I.R.S. Employer Identification No.)
9715 Key West Avenue	**Rockville**	**MD**	**20850**
(Address of principal executive offices)			(Zip Code)

(301) 838-2500
(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. ☒ Yes ☐ No

Indicate by check mark whether the registrant has submitted electronically pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files).

☒ Yes No ☐

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

Large accelerated filer	☒	Accelerated filer	☐
Non-accelerated filer	☐	Smaller reporting company	☐
		Emerging growth company	☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. o

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

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

Title of each class	Outstanding at April 30, 2021	Trading Symbol	Name of each exchange on which registered
Common Stock, $0.001 par value per share	53,018,637	SUPN	The Nasdaq Global Market

SUPERNUS PHARMACEUTICALS, INC.
FORM 10-Q — QUARTERLY REPORT
FOR THE QUARTERLY PERIOD ENDED March 31, 2021

PART I — FINANCIAL INFORMATION

Supernus Pharmaceuticals, Inc.
Condensed Consolidated Balance Sheets
(in thousands, except share data)

	March 31, 2021 (unaudited)	December 31, 2020
Assets		
Current assets		
Cash and cash equivalents	$ 255,642	$ 288,640
Marketable securities	135,459	133,893
Accounts receivable, net	127,065	140,877
Inventories, net	50,226	48,325
Prepaid expenses and other current assets	17,631	18,682
Total current assets	586,023	630,417
Long term marketable securities	416,566	350,359
Property and equipment, net	37,950	37,824
Intangible assets, net	358,736	364,342
Goodwill	77,911	77,911
Other assets	30,257	43,249
Total assets	$ 1,507,443	$ 1,504,102
Liabilities and stockholders' equity		
Current liabilities		
Accounts payable and accrued liabilities	$ 70,099	$ 78,934
Accrued product returns and rebates	128,736	126,192
Contingent consideration, current portion	31,520	30,900
Other current liabilities	10,457	9,082
Total current liabilities	240,812	245,108
Convertible notes, net	366,038	361,751
Contingent consideration, long term	46,200	45,800
Operating lease liabilities, long term	28,532	28,579
Deferred income tax liabilities	31,742	35,215
Other liabilities	39,675	42,791
Total liabilities	752,999	759,244
Stockholders' equity		
Common stock, $0.001 par value; 130,000,000 shares authorized; 52,994,137 and 52,868,482 shares issued and outstanding as of March 31, 2021 and December 31, 2020, respectively	53	53
Additional paid-in capital	415,950	409,332
Accumulated other comprehensive earnings, net of tax	6,249	8,975
Retained earnings	332,192	326,498
Total stockholders' equity	754,444	744,858
Total liabilities and stockholders' equity	$ 1,507,443	$ 1,504,102

See accompanying notes.

Supernus Pharmaceuticals, Inc.
Condensed Consolidated Statements of Earnings
(in thousands, except share and per share data)

	Three Months ended March 31,	
	2021	2020
	(unaudited)	
Revenues		
Net product sales	$ 128,381	$ 92,490
Royalty revenues	2,551	2,486
Total revenues	130,932	94,976
Costs and expenses		
Cost of goods sold [a]	14,954	4,152
Research and development	34,280	18,937
Selling, general and administrative	61,457	41,614
Amortization of intangible assets	6,007	1,261
Contingent consideration expense	1,020	—
Total costs and expenses	117,718	65,964
Operating earnings	13,214	29,012
Other income (expense)		
Interest expense	(6,097)	(5,755)
Interest and other income, net	3,812	5,777
Total other income (expense)	(2,285)	22
Earnings before income taxes	10,929	29,034
Income tax expense	5,235	7,516
Net earnings	$ 5,694	$ 21,518
Earnings per share		
Basic	$ 0.11	$ 0.41
Diluted	$ 0.11	$ 0.40
Weighted-average shares outstanding		
Basic	52,927,467	52,534,787
Diluted	54,196,971	53,581,051

[a] Excludes amortization of acquired intangible assets

See accompanying notes.

Supernus Pharmaceuticals, Inc.
Condensed Consolidated Statements of Comprehensive Earnings
(in thousands)

	Three Months ended March 31,	
	2021	2020
	(unaudited)	
Net earnings	$ 5,694	$ 21,518
Other comprehensive earnings		
Unrealized loss on marketable securities, net of tax	(2,726)	(7,583)
Other comprehensive loss	(2,726)	(7,583)
Comprehensive earnings	$ 2,968	$ 13,935

See accompanying notes.

Supernus Pharmaceuticals, Inc.
Condensed Consolidated Statements of Changes in Stockholders' Equity
Three Months ended March 31, 2021 and 2020
(unaudited, in thousands, except share data)

	Common Stock		Additional Paid-in Capital	Accumulated Other Comprehensive Earnings (Loss)	Retained Earnings	Total Stockholders' Equity
	Shares	Amount				
Balance, December 31, 2020	52,868,482	$ 53	$ 409,332	$ 8,975	$ 326,498	$ 744,858
Share-based compensation	—	—	4,371	—	—	4,371
Issuance of common stock in connection with the Company's equity award plans	125,655	—	2,247	—	—	2,247
Net earnings	—	—	—	—	5,694	5,694
Unrealized loss on marketable securities, net of tax	—	—	—	(2,726)	—	(2,726)
Balance, March 31, 2021	52,994,137	$ 53	$ 415,950	$ 6,249	$ 332,192	$ 754,444

	Common Stock		Additional Paid-in Capital	Accumulated Other Comprehensive Earnings (Loss)	Retained Earnings	Total Stockholders' Equity
	Shares	Amount				
Balance, December 31, 2019	52,533,348	$ 53	$ 388,410	$ 7,417	$ 199,548	$ 595,428
Share-based compensation	—	—	3,988	—	—	3,988
Issuance of common stock in connection with the Company's equity award plans	3,811	—	32	—	—	32
Net earnings	—	—	—	—	21,518	21,518
Unrealized loss on marketable securities, net of tax	—	—	—	(7,583)	—	(7,583)
Balance, March 31, 2020	52,537,159	$ 53	$ 392,430	$ (166)	$ 221,066	$ 613,383

See accompanying notes.

Supernus Pharmaceuticals, Inc.
Condensed Consolidated Statements of Cash Flows
(in thousands)

	Three Months ended March 31,	
	2021	2020
	(unaudited)	
Cash flows from operating activities		
Net earnings	$ 5,694	$ 21,518
Adjustments to reconcile net earnings to net cash provided by operating activities:		
Depreciation and amortization	6,592	1,732
Navitor investment R&D expense	15,000	—
Amortization of deferred financing costs and debt discount	4,287	4,061
Realized gains from sales of marketable securities	(216)	(202)
Amortization of premium/discount on marketable securities	(1,706)	(249)
Change in fair value of contingent consideration	1,020	—
Other noncash adjustments, net	(1,202)	790
Share-based compensation expense	4,371	3,988
Deferred income tax provision	(2,565)	538
Changes in operating assets and liabilities:		
Accounts receivable	13,805	(31,823)
Inventories	(1,048)	2,210
Prepaid expenses and other assets	(368)	(454)
Accrued product returns and rebates	2,544	11,824
Accounts payable and other liabilities	(10,008)	(5,017)
Net cash provided by operating activities	36,200	8,916
Cash flows from investing activities		
Purchases of marketable securities	(119,063)	(15,382)
Sales and maturities of marketable securities	49,579	53,357
Purchases of property and equipment	(1,508)	(2,537)
Deferred legal fees	(453)	—
Net cash (used in) provided by investing activities	(71,445)	35,438
Cash flows from financing activities		
Proceeds from issuance of common stock	2,247	32
Net cash provided by financing activities	2,247	32
Net change in cash and cash equivalents	(32,998)	44,386
Cash and cash equivalents at beginning of year	288,640	181,381
Cash and cash equivalents at end of period	$ 255,642	$ 225,767
Supplemental cash flow information		
Cash paid for interest on convertible notes	$ 1,258	$ 1,258
Cash paid for income taxes	301	324
Cash paid for operating leases	1,834	1,261
Noncash investing and financing activities		
Lease assets and tenant receivable obtained for new leases	$ 1,432	$ 1,715
Deferred legal fees and fixed assets included in accounts payable and accrued expenses	160	708

See accompanying notes.

Supernus Pharmaceuticals, Inc.
Notes to Condensed Consolidated Financial Statements (unaudited)

1. Business Organization

Supernus Pharmaceuticals, Inc. (the Company) is a biopharmaceutical company focused on developing and commercializing products for the treatment of central nervous system (CNS) diseases. The Company's diverse neuroscience portfolio includes approved treatments for epilepsy, migraine, attention-deficit hyperactivity disorder (ADHD), hypomobility in Parkinson's Disease (PD), cervical dystonia, and chronic sialorrhea. The Company is developing a broad range of novel CNS product candidates including new potential treatments for ADHD, hypomobility in PD, epilepsy, depression, and rare CNS disorders.

The Company has a portfolio of commercial products and product candidates.

Commercial Products

- Trokendi XR® (topiramate) is the first once-daily extended release topiramate product indicated for the treatment of epilepsy in the United States (U.S.) market. It is also indicated for the prophylaxis of migraine headache.
- Oxtellar XR® (oxcarbazepine) is indicated as therapy for partial onset seizures in adults and children 6 years to 17 years of age and is the first once-daily extended-release oxcarbazepine product indicated for the treatment of epilepsy in the U.S.
- Qelbree™ (viloxazine extended-release capsules) is a novel non-stimulant product indicated for the treatment of ADHD in pediatric patients 6 to 17 years of age.
- APOKYN® (apomorphine hydrochloride injection) is a product indicated for the acute, intermittent treatment of hypomobility or "off" episodes ("end-of-dose wearing off" and unpredictable "on-off" episodes) in patients with advanced PD.
- MYOBLOC® (rimabotulinumtoxinB) is a product indicated for the treatment of cervical dystonia and sialorrhea in adults, and it is the only Type B toxin available on the market.
- XADAGO® (safinamide) is a once-daily product indicated as adjunctive treatment to levodopa/carbidopa in patients with PD experiencing "off" episodes.

Product Candidates

- SPN-812 (viloxazine hydrochloride) is a novel non-stimulant product candidate for the treatment of ADHD in adult patients.
- SPN-830 (Apomorphine Infusion Pump) is a late-stage drug/device combination product candidate for the continuous prevention of "off" episodes in PD.
- SPN-817 is a novel product candidate for the treatment of severe epilepsy.
- SPN-820 is a first-in-class product candidate for treatment resistant depression (TRD). It is an orally active small molecule that directly activates brain mechanistic target of rapamycin complex 1 (mTORC1).

In April 2021, the U.S. Food and Drug Administration (FDA) approved Qelbree for the treatment of ADHD in pediatric patients 6 to 17 years of age. The Company plans to make Qelbree available in the U.S. during the second quarter of 2021.

On April 28, 2020, the Company entered into a Sale and Purchase Agreement with US WorldMeds Partners, LLC to acquire the CNS portfolio of USWM Enterprises, LLC (USWM Enterprises) (USWM Acquisition). With the acquisition, completed on June 9, 2020, the Company added three established commercial products, APOKYN, XADAGO, and MYOBLOC, and a product candidate in late-stage development, SPN-830, to its portfolio. Refer to Note 3, *USWM Acquisition*, for further discussion on the USWM Acquisition.

On April 21, 2020, the Company entered into a Development and Option Agreement (Development Agreement) with Navitor Pharmaceuticals, Inc. (Navitor Inc.). Under the terms of the Development Agreement, the Company and Navitor Inc. will jointly conduct a Phase II clinical program for NV-5138 (SPN-820) in TRD. In addition to entering into the Development

Agreement in April 2020, the Company acquired an ownership position in Navitor Inc. In March 2021, Navitor Inc. underwent a legal restructuring whereby Navitor Inc. became a wholly owned subsidiary of a newly formed limited liability company, Navitor Pharmaceuticals, LLC (Navitor LLC). Refer to Note 5, *Investments*, for further discussion on the Navitor Development Agreement and equity investment.

COVID-19 Impact

The Company is closely monitoring the impact of the COVID-19 pandemic on all aspects of its business operations, and has assessed the impact of the COVID-19 pandemic on its condensed consolidated financial statements as of March 31, 2021.

Since the situation surrounding the COVID-19 pandemic remains fluid and the duration uncertain, the long-term nature and extent of the impacts of the pandemic on the Company's business operations and financial position cannot be reasonably estimated at this time.

2. Summary of Significant Accounting Policies

Basis of Presentation

The Company’s unaudited condensed consolidated financial statements have been prepared in accordance with the requirements of the U.S. Securities and Exchange Commission (SEC) for interim financial information. As permitted under Generally Accepted Accounting Principles in the United States (U.S. GAAP), certain notes and other information have been omitted from the interim unaudited condensed consolidated financial statements presented in this Quarterly Report on Form 10-Q. Therefore, these condensed consolidated financial statements should be read in conjunction with the Company’s most recent Annual Report on Form 10-K, for the year ended December 31, 2020, filed with the SEC.

In management’s opinion, the condensed consolidated financial statements include all normal and recurring adjustments necessary for a fair presentation of the Company’s financial position, results of operations, and cash flows. The results of operations for any interim period are not necessarily indicative of the Company’s future quarterly or annual results.

The Company, which is primarily located in the U.S., operates in one operating segment.

Reclassifications

Certain prior year amounts in the condensed consolidated statements of earnings have been reclassified to conform to the current year presentation, including a reclassification made to separately present amortization of intangible assets. This was previously included in *Selling, general and administrative expenses*, and is now recorded as a component of *Amortization of intangible assets* on the condensed consolidated statements of earnings. These reclassifications had no effect on operating earnings or on our other condensed consolidated financial statements for the three months ended March 31, 2021 and 2020.

Consolidation

The Company’s condensed consolidated financial statements include those of the Company's wholly-owned subsidiaries and variable interest entities (VIE) where the Company is the primary beneficiary, if any. All significant intercompany transactions and balances have been eliminated in consolidation.

The Company continuously assesses whether it is the primary beneficiary of a VIE, as changes to existing relationships or future transactions may affect its conclusions.

Use of Estimates

The Company bases its estimates on: historical experience; forecasts; information received from its service providers; information from other sources, including public and proprietary sources; and other assumptions that the Company believes are reasonable under the circumstances. Actual results could differ materially from the Company’s estimates. The Company periodically evaluates the methodologies employed in making its estimates.

The extent to which the COVID-19 pandemic may directly or indirectly impact our business, financial condition and results of operations is highly uncertain and subject to change. As a result, certain of our estimates and assumptions, including the provision for sales deductions, the creditworthiness of customers entering into revenue arrangements, the valuation of the assets and liabilities acquired in the USWM Acquisition, and the fair values of our financial instruments, require increased judgment and carry a higher degree of variability and volatility that could result in material changes to our estimates in future periods.

Advertising Expense

Advertising expense includes the cost of promotional materials and activities, such as printed materials and digital marketing, marketing programs and speaker programs. The cost of the Company's advertising efforts are expensed as incurred.

The Company incurred approximately $15.3 million and $11.6 million in advertising expense for the three months ended March 31, 2021 and 2020, respectively. These expenses are recorded as a component of *Selling, general and administrative expenses* in the condensed consolidated statements of earnings.

Recently Issued Accounting Pronouncements

Accounting Pronouncements Adopted

ASU 2019-12, *Income Taxes (Topic 740): Simplifying the Accounting for Income Taxes* - The new standard, issued in December 2019, simplifies the accounting for income taxes. The Company adopted the guidance on January 1, 2021, on a prospective basis. The adoption of the new standard did not have a material impact to the financial statements.

ASU 2020-01, *Investments — Equity Securities (Topic 321), Investments — Equity Method and Joint Ventures (Topic 323), and Derivatives and Hedging (Topic 815), Clarifying the Interactions between Topic 321, Topic 323, and Topic 815* - The new standard, issued in January 2020, clarifies the interaction of the equity securities under Topic 321 and investments accounted for under the equity method of accounting in Topic 323 and the accounting for certain contracts and purchased options accounted for under Topic 815. The amendment clarifies that an entity can elect to adopt the measurement alternative, which is if an entity identifies observable price changes in orderly transactions for the identical or a similar investment of the same issuer, it should measure the equity security at fair value as of the date that the observable transaction occurred before applying or upon discontinuing the equity method. The adoption of the new standard as of January 1, 2021 did not have a material impact to the financial statements.

New Accounting Pronouncements Not Yet Adopted

The Company is currently evaluating the impact of the new guidance on its consolidated financial statements.

ASU 2020-06, *Debt - Debt with Conversion and Other Options (Subtopic 470-20) and Derivatives and Hedging - Contracts in Entity's Own Equity (Subtopic 815-40): Accounting for Convertible Instruments and Contracts in an Entity's Own Equity* - The new standard, issued in August 2020, simplifies the accounting and disclosures for convertible instruments and contracts. This guidance will be effective on January 1, 2022, on a prospective basis, with early adoption permitted but not earlier than January 1, 2021. The Company is currently evaluating the impact of the new guidance on its consolidated financial statements.

3. USWM Acquisition

On June 9, 2020 (the Closing Date), the Company completed its acquisition of all of the outstanding equity of USWM Enterprises, a privately-held biopharmaceutical company, pursuant to a Sale and Purchase Agreement with US WorldMeds Partners, LLC (Seller), dated April 28, 2020 (the Agreement). Under the terms of the Agreement, the Company acquired the right to further develop and commercialize APOKYN, XADAGO, and the Apomorphine Infusion Pump (SPN-830) in the U.S. and MYOBLOC worldwide (the Products) for an upfront cash payment of $297.2 million, subject to working capital adjustments, and the potential for additional contingent consideration payments of up to $230 million.

The potential $230 million in contingent consideration payments includes up to $130 million for the achievement of certain SPN-830 regulatory and commercial activities (regulatory and developmental contingent consideration payments) and up to $100 million related to future sales performance of the Products (sales-based contingent consideration payments). The regulatory and developmental contingent consideration payments include a $25 million milestone due upon the FDA's acceptance of the SPN-830 New Drug Application (NDA) for review. The remaining $105 million of the $130 million contingent consideration payments include payments upon the FDA's regulatory approval and subsequent commercial launch of SPN-830, if approved. One of the regulatory milestones has a time-based mechanism for full or partial achievement. The $100 million sales-based contingent consideration payments include a $35 million milestone due upon achievement of certain U.S. net product sales of APOKYN during 2021. The remaining $65 million of the $100 million sales-based contingent consideration payments relate to the achievement of certain net product sales of the Products in 2022 and 2023.

The Company's accounting for this acquisition is preliminary and fair value estimates for the assets acquired and liabilities assumed and the Company's estimates and assumptions are subject to change as the Company obtains additional information for its estimates during the measurement period.

The Company expects to finalize its purchase price allocation within one year of the Closing Date. The Company continues to analyze and assess relevant information necessary to determine, recognize and record at fair value the assets acquired and liabilities assumed. Examples of areas that rely on preliminary estimates subject to measurement period adjustments include intangibles, lease asset and liability and deferred income tax assets and liabilities. The Company is in the process of obtaining additional market research that may inform the fair value of the acquired intangible assets and additional analysis that may be informative in the determination of the fair value of lease asset and other information. Accordingly, the preliminary recognition and measurement of assets acquired and liabilities assumed as of Closing Date are subject to change.

Purchase Price Consideration

	As Initially Reported	Measurement Period Adjustments	As Adjusted
Cash consideration	$ 304,194	$ 1,341	$ 305,535
Estimated fair value of contingent consideration	115,700	(40,900)	74,800
Estimated total purchase consideration	$ 419,894	$ (39,559)	$ 380,335
Cash consideration to Seller - net of cash acquired [(1)]	$ 297,200	$ 1,341	$ 298,541

[(1)] Represents total purchase price, less cash and cash equivalents acquired, and contingent consideration liabilities. Measurement period adjustment reflects additional payments made to Seller following the Closing date for working capital adjustments on the purchase price consistent with the Agreement.

The Company paid the Seller $297.2 million in cash at the Closing Date. In the fourth quarter of 2020, the Company paid the Seller an additional $1.3 million for working capital adjustments on the purchase price consistent with the Agreement resulting in an increase to the original cash consideration paid to the Seller.

Contingent Consideration

In addition to the cash paid to the Seller, contingent payments of up to $230 million are also due to the Seller upon the achievement of certain milestones related to the development of SPN-830, the In Process Research and Development (IPR&D) asset, and sale of the Products. The possible outcomes for the contingent consideration range from $0, if no milestone is achieved, to $230 million on an undiscounted basis if all milestones are achieved.

The Company initially recorded a contingent consideration liability of $115.7 million as of the Closing Date to reflect the estimated fair value of the contingent consideration based on information available at that time. Subsequent to the Closing Date, the Company adjusted the contingent consideration fair value based on new information related to the facts and circumstances that existed as of the acquisition date related to the timing of meeting the conditions of the milestone payments that are contingent upon regulatory approval and commercial launch of the acquired IPR&D asset as well as the estimated timing of projected revenues from the Products. As a result, the Company recorded in the fourth quarter of 2020, a measurement period adjustment of $40.9 million, which decreased the estimated fair value of the contingent consideration liability as of Closing Date to $74.8 million.

Fair Value of Net Assets Acquired

The following table presents the Company's preliminary estimates of the fair value of the assets acquired and liabilities assumed as of the Closing Date, and subsequent measurement period adjustments recorded (dollars in thousands):

	As Initially Reported	Measurement Period Adjustments	As Adjusted
Cash and cash equivalents	$ 6,994	$ —	$ 6,994
Accounts receivable	18,474	—	18,474
Inventories [1]	10,400	(700)	9,700
Prepaid expenses and other current assets	3,564	—	3,564
Property and equipment	454	—	454
Finance lease asset [2]	22,747	—	22,747
Intangible assets [1]	387,000	(32,000)	355,000
Other assets	340	—	340
Total fair value of assets acquired	449,973	(32,700)	417,273
Accounts payable	(2,573)	—	(2,573)
Accrued expenses and other current liabilities	(23,339)	—	(23,339)
Finance lease liability [2]	(22,747)	—	(22,747)
Deferred income tax liabilities, net [3]	(69,515)	3,325	(66,190)
Total fair value of liabilities assumed	(118,174)	3,325	(114,849)
Total identifiable net assets	$ 331,799	$ (29,375)	$ 302,424
Goodwill	88,095	(10,184)	77,911
Total purchase price [4]	$ 419,894	$ (39,559)	$ 380,335

[1] Measurement period adjustments to intangible assets and inventory are primarily due to updates to inputs and assumptions based on information related to the facts and circumstances that existed as of the acquisition date.
[2] Refer to Note 12 for further discussion of the acquired finance lease asset and assumed lease liability.
[3] Includes tax attributes that are subject to tax limitations. Measurement period adjustment is primarily due to the tax impact of the changes in the initial estimate of the fair value of intangible assets and inventories.
[4] Measurement period adjustments include an adjustment to the fair value of the contingent consideration net of the additional cash payment made to the Seller.

Acquired Intangible Assets

The acquired intangible assets include the acquired IPR&D asset related to the Apomorphine Infusion Pump product candidate and the acquired developed technology and product rights. The Company determined the estimated fair value of the acquired intangible assets as of the Closing Date using the income approach. The fair value measurements of the acquired intangible assets were determined based on significant unobservable inputs and thus represent a Level 3 fair value measurement. Some of the more significant inputs and assumptions used in the intangible assets valuation includes: the timing and probability of success of clinical and regulatory approvals for the IPR&D asset, the estimated future cash flows from Product sales, the timing and projection of costs and expenses, discount rates and tax rates.

The Company initially recorded a fair value of intangible assets of $387 million, which consisted of $150 million related to the acquired IPR&D and $237 million related to acquired developed technology and Product rights. The initial estimate of the fair value of intangible assets recorded as of the Closing Date is based on information available at that time. During the year ended December 31, 2020, the Company recorded measurement period adjustments of $32 million, which adjusted the initial estimated fair value of the intangible assets to $355 million as of the Closing Date. The Company updated assumptions with respect to the timing of regulatory approval and the commercialization of the acquired IPR&D asset. In addition, the Company also made refinements of the estimates of projected cash flows based on review of terms of the contractual arrangements

associated with the acquired Products. The revisions were based on updated assumptions and information related to the facts and circumstances that existed as of the acquisition date.

The following table summarizes the preliminary purchase price allocation, and the preliminary average remaining useful lives for identifiable intangible assets (dollars in thousands):

	Estimated Fair Value	Estimated Lives as of Closing (in years)
Acquired In-process Research & Development	$ 123,000	n/a
Acquired Developed Technology and Product Rights	232,000	10.5 - 1
Total intangible assets	$ 355,000	

Acquired intangible assets, excluding the acquired IPR&D assets, are amortized over their estimated useful lives on a straight-line basis. IPR&D assets are considered indefinite-lived, until the successful completion or abandonment of the associated research and development efforts.

Goodwill

Goodwill was calculated as the excess of the consideration paid consequent to completing the acquisition, compared to the net assets recognized. Goodwill represents the future economic benefits from the other acquired assets, and which could not be individually identified and separately valued. Goodwill is primarily attributable to the additional acquired growth platforms and an expanded revenue base. Goodwill is not expected to be deductible for tax purposes.

Pro forma Information

The following table presents the unaudited pro forma combined financial information as if the USWM Acquisition had occurred on January 1, 2019 (dollars in thousands):

	Three Months ended Ma 2020
Pro forma total revenues	$ 1
Pro forma net earnings	

The unaudited pro forma combined financial information is based on historical financial information as well as the Company's preliminary allocation of the purchase price; therefore, it is subject to subsequent adjustment upon finalization of the purchase price allocation. In order to reflect the occurrence of the acquisition as if it occurred on January 1, 2019, the unaudited pro forma combined financial information reflects the adoption of ASC 842, *Leases;* the recognition of additional amortization expense on intangible assets, the removal of historical amortization charges and the elimination of non-recurring acquisition-related transaction costs.

The unaudited pro forma combined financial information should not be considered indicative of the results that would have occurred if the acquisition had been consummated on the assumed completion date, nor are they indicative of future results.

4. Disaggregated Revenues

The following table summarizes the disaggregation of revenues by product or source, (dollars in thousands):

	Three Months ended March 31,	
	2021	2020
	(unaudited)	
Net product sales		
Trokendi XR	$ 71,819	$ 68,551
Oxtellar XR	27,370	23,939
APOKYN	21,730	—
MYOBLOC	4,240	—
XADAGO	3,222	—
Total net product sales	$ 128,381	$ 92,490
Royalty revenues	2,551	2,486
Total revenues	$ 130,932	$ 94,976

Trokendi XR accounted for 56% and 74% of the Company's total net product sales for the three months ended March 31, 2021 and 2020, respectively.

Each of our three major customers, AmerisourceBergen Drug Corporation, Cardinal Health, Inc. and McKesson Corporation, individually accounted for more than 25% of our total net product sales and collectively accounted for more than 85% of our total net product sales in both 2021 and 2020.

The Company recognized noncash royalty revenue of $2.2 million and $1.6 million, for the three months ended March 31, 2021 and 2020, respectively. Refer to Note 15, *Commitments and Contingencies*.

5. Investments

Marketable Securities

Unrestricted available-for-sale marketable securities held by the Company are as follows, (dollars in thousands):

	March 31, 2021	December 31, 2020
	(unaudited)	
Corporate and U.S. government agency and municipal debt securities		
Amortized cost	$ 543,713	$ 472,306
Gross unrealized gains	8,958	11,987
Gross unrealized losses	(646)	(41)
Total fair value	$ 552,025	$ 484,252

The contractual maturities of the unrestricted available-for-sale marketable securities held by the Company are as follows, (dollars in thousands):

	March 31, 2021
	(unaudited)
Less than 1 year	$ 135,459
1 year to 2 years	151,713
2 years to 3 years	201,619
3 years to 4 years	63,234
Greater than 4 years	—
Total	$ 552,025

As of March 31, 2021, there was no impairment due to credit loss on any available-for-sale marketable securities.

Investment in Navitor

Development and Option agreement

In April 2020, the Company entered into the Development Agreement with Navitor Inc. The Company can terminate the Development Agreement upon 30 days' notice. Under the terms of the Development Agreement, the Company and Navitor Inc. will jointly conduct a Phase II clinical program for NV-5138 (SPN-820) for TRD. The Company will bear all of the Phase I and Phase II development costs incurred by either party, up to a maximum of $50 million. In addition, the Company will incur certain other research and development support costs. There are certain additional payment amounts which could be incurred by the Company. These costs are contingent upon Navitor Inc. achieving defined development milestones. The Company has an option to acquire or license NV-5138 (SPN-820), for which additional payments would be required. In the second quarter of 2020, the Company paid Navitor Inc. a one time, nonrefundable, and non-creditable fee of $10 million for this option to acquire or license NV-5138 (SPN-820).

Equity investment

In addition to entering into the Development Agreement in April 2020, the Company acquired Series D Preferred Shares of Navitor Inc. for $15 million, representing an approximately 13% ownership position in Navitor Inc.

In March 2021, Navitor Inc. underwent a legal restructuring. In the restructuring, Navitor Inc. became a wholly owned subsidiary of a newly formed limited liability company, Navitor LLC, and the outstanding shares of stock in Navitor Inc. were exchanged for units of membership interest in Navitor LLC having equivalent rights and preferences (Navitor Restructuring). As part of the Navitor Restructuring, the Series D Preferred Shares previously held by the Company were exchanged for Series D Preferred Units in Navitor LLC. In addition, certain assets that did not relate to NV-5138 (SPN-820) were transferred from Navitor Inc. to a newly formed entity that became a separate, wholly owned subsidiary of Navitor LLC.

The Company had determined that Navitor LLC is a VIE. The Company does not consolidate this VIE because the Company lacks the power to direct the activities that most significantly impact the investee's economic performance.

Prior to the Navitor Restructuring, the investment was accounted for under the practical expedient allowed for equity securities without readily determinable fair value, which is cost minus impairment plus any changes in observable price changes from an orderly transaction of similar investments in Navitor Inc. Following the legal restructuring and exchange of the preferred shares to member equity units of Navitor LLC, the investment was accounted for under the equity method of accounting due to the Company's ability to exert significant influence, but not control the financial and operating decisions. The majority of the assets and liabilities recorded in Navitor LLC's financial statements represent working capital items and cash that are being used for research and development purposes and are significantly lower than the Company's investment in Navitor LLC. This created a significant basis difference for the Company's investment in the underlying net assets, requiring the Company to account for the investee as if it were a consolidated subsidiary in a manner consistent with the provisions of ASC 805, *Business Consolidation*, to apply the acquisition method of accounting. The Company has determined that substantially all of the fair value of the investment is attributable to a single IPR&D asset. As a result, the investee is not considered a business as defined in ASC 805. In the first quarter of 2021, the $15 million investment, which was previously recorded in *Other assets* in the condensed consolidated balance sheets, was expensed and recorded in *Research and development expense* in the condensed consolidated statements of earnings.

The maximum exposure to losses related to the investee is a maximum of approximately $50 million in expense for Phase I and Phase II development of NV-5138 (SPN-820), and the cost of other development and formulation activities provided by the Company.

We have provided no financing to the investee other than amounts required under the Development Agreement.

6. Fair Value of Financial Measurements

The fair value of an asset or liability represents the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between unrelated market participants.

The Company reports the fair value of assets and liabilities using a three level measurement hierarchy that prioritizes the inputs used to measure fair value. Fair value hierarchy consists of the following three levels:

- Level 1—Valuations based on unadjusted quoted prices in active markets that are accessible at measurement date for identical assets.

- Level 2—Valuations based on quoted prices for similar assets or liabilities in active markets, quoted prices for identical or similar assets or liabilities in markets that are not active and model-based valuations in which all significant inputs are observable in the market, either directly or indirectly (e.g., interest rates; yield curves).

- Level 3—Valuations using significant inputs that are unobservable in the market and inputs that reflect the Company's own assumptions. These are based on the best information available, including the Company's own data.

The fair value of the restricted marketable securities which are classified as level 2 financial assets is recorded in *Other assets* on the condensed consolidated balance sheets. There were no level 3 financial assets as of March 31, 2021 or December 31, 2020. There have been no transfers of assets or liabilities into or out of Level 3 of the fair value hierarchy.

Financial Assets and Liabilities Recorded at Fair Value on a Recurring Basis

The Company's financial assets that are required to be measured at fair value on a recurring basis are as follows (dollars in thousands):

		Fair Value Measurements at March 31, 2021 (unaudited)		
	Total Fair Value at March 31, 2021	Level 1	Level 2	Level 3
Assets:				
Cash and cash equivalents				
Cash	$ 154,245	$ 154,245	$ —	$ —
Money market funds	101,397	101,397	—	—
Marketable securities				
Corporate debt securities	135,459	255	135,204	—
Long term marketable securities				
Corporate debt securities	416,566	—	416,566	—
Other noncurrent assets				
Marketable securities - restricted (SERP)	559	4	555	—
Total assets at fair value	$ 808,226	$ 255,901	$ 552,325	$ —
Liabilities:				
Contingent consideration	$ 77,720	$ —	$ —	$ 77,720
Total liabilities at fair value	$ 77,720	$ —	$ —	$ 77,720

	Total Fair Value at December 31, 2020	Fair Value Measurements at December 31, 2020		
		Level 1	Level 2	Level 3
Assets:				
Cash and cash equivalents				
Cash	$ 218,550	$ 218,550	$ —	$ —
Money market funds	70,090	70,090	—	—
Marketable securities				
Corporate debt securities	133,893	—	133,893	—
Long term marketable securities				
Corporate debt securities	350,359	256	350,103	—
Other noncurrent assets				
Marketable securities - restricted (SERP)	547	3	544	—
Total assets at fair value	$ 773,439	$ 288,899	$ 484,540	$ —
Liabilities:				
Contingent consideration	$ 76,700	$ —	$ —	76,700
Total liabilities at fair value	$ 76,700	$ —	$ —	$ 76,700

Other Financial Instruments

The carrying amounts of other financial instruments, including accounts receivable, accounts payable, and accrued expenses, approximate fair value due to their short-term maturities.

The Company records its convertible debt at carrying value. The fair value of the outstanding convertible debt is based on actual trading information as well as quoted prices, both provided by bond traders. Refer to Note 8, *Convertible Senior Notes Due 2023*.

The Company also had an investment in Navitor LLC, a privately held company, which it classifies as Level 3 as it does not have a readily determinable fair value. In the first quarter of 2021, the $15 million investment in Navitor LLC was expensed. Refer to Note 5, *Investments*.

Contingent Consideration

The contingent consideration liabilities are measured at fair value on a recurring basis, using the same methodology as of the acquisition date; i.e., the Monte Carlo simulation for the sales-based milestones, and the income approach for the other milestones.

The following table provides a reconciliation of the beginning and ending balances related to the contingent consideration for the USWM Acquisition (dollars in thousands):

	March 31, 2021
	(unaudited
Balance at December 31, 2020	$
Change in fair value recognized in earnings	
Balance at March 31, 2021	$

7. Goodwill and Intangible Assets, Net

The following table sets forth the gross carrying amounts and related accumulated amortization of intangibles assets and goodwill (dollars in thousands):

	Remaining Weighted-Average Life (Years)	March 31, 2021	December 31, 2020
		(unaudited)	
Goodwill		$ 77,911	$ 77,911
Intangible assets:			
Acquired IPR&D		$ 123,000	$ 123,000
Definite-lived intangible assets			
Acquired developed technology and product rights	9.75 - 11.75	232,000	232,000
Capitalized patent defense costs	1.75 - 6.00	43,980	43,579
Less accumulated amortization		(40,244)	(34,237)
Total intangible assets, net		$ 358,736	$ 364,342

Patent defense costs, which are deferred legal fees incurred in conjunction with defending patents for Oxtellar XR and Trokendi XR. U.S. patents covering Oxtellar XR and Trokendi XR will expire no earlier than 2027. As regards Trokendi XR, the Company entered into settlement agreements that allow third parties to enter the market by January 1, 2023, or earlier under certain circumstances.

Amortization expense for intangible assets was approximately $6.0 million and $1.3 million, for the three month periods ended March 31, 2021 and 2020, respectively. The increase in expense is due to amortization of the acquired developed technology and product rights from the USWM Acquisition.

As of March 31, 2021, there were no identified indicators of impairment.

8. Convertible Senior Notes Due 2023

The 0.625% Convertible Senior Notes Due 2023 (2023 Notes), which were issued in March 2018, bear interest at an annual rate of 0.625%, payable semi-annually in arrears on April 1 and October 1 of each year. The 2023 Notes will mature on April 1, 2023, unless earlier converted or repurchased by the Company. The Company may not redeem the 2023 Notes at its option before maturity. The total principal amount of 2023 Notes is $402.5 million.

The 2023 Notes were issued pursuant to an Indenture between the Company and Wilmington Trust, National Association, as trustee. The Indenture includes customary terms and covenants, including certain events of default upon which the 2023 Notes may be due and payable immediately. The Indenture does not contain any financial or operating covenants, or any restrictions on the payment of dividends, the issuance of other indebtedness, or the issuance or repurchase of securities by the Company.

Noteholders may convert their 2023 Notes at their option only in the following circumstances: (1) during any calendar quarter, if the last reported sale price per share of the Company's common stock for at least 20 trading days (whether or not consecutive) during the 30 consecutive trading days ending on, and including the last trading day of the immediately preceding calendar quarter, exceeds 130% of the conversion price, or a price of approximately $77.13 per share on such trading day; (2) during the five consecutive business days immediately after any 10 consecutive trading day period (such 10 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 per share of the Company's common stock on such trading day and the conversion rate on such trading day; (3) upon the occurrence of certain corporate events or distributions on the Company's common stock, as specified in the Indenture; and (4) at any time from and including October 1, 2022, until the close of business on the second scheduled trading day immediately before the maturity date.

At its election, the Company will settle conversions by paying or delivering, as applicable, cash, shares of the Company’s common stock, or a combination of cash and shares of the Company’s common stock, based on the applicable conversion rate. The initial conversion rate is 16.8545 shares per $1,000 principal amount of the 2023 Notes, which represents an initial conversion price of approximately $59.33 per share, and is subject to adjustment as specified in the Indenture. In the event

of conversion, if converted in cash, the holders would forgo all future interest payments, any unpaid accrued interest, and the possibility of further stock price appreciation.

If a "make-whole fundamental change," as defined in the Indenture occurs, then the Company will in certain circumstances increase the conversion rate for a specified period of time. If a "fundamental change," as defined in the Indenture occurs, then noteholders may require the Company to repurchase their 2023 Notes at a cash repurchase price equal to the principal amount of the 2023 Notes to be repurchased, plus accrued and unpaid interest, if any.

Contemporaneous with the issuance of the 2023 Notes, the Company also entered into separate privately negotiated convertible note hedge transactions (collectively, the Convertible Note Hedge Transactions) with each of the call spread counterparties. The Company issued 402,500 convertible note hedge options. In the event that shares or cash are deliverable to holders of the 2023 Notes upon conversion at limits defined in the Indenture, counterparties to the convertible note hedges will be required to deliver up to approximately 6.8 million shares of the Company's common stock, or to pay cash to the Company in a similar amount as the value that the Company delivers to the holders of the 2023 Notes, based on a conversion price of $59.33 per share.

Concurrently with entering into the Convertible Note Hedge Transactions, the Company also entered into separate privately negotiated warrant transactions (collectively, the Warrant Transactions) with each of the call spread counterparties. The Company issued a total of 6,783,939 warrants. The warrants entitle the holder to one share per warrant. The strike price of the Warrant Transactions will initially be $80.9063 per share of the Company's common stock, and is subject to adjustment.

The Convertible Note Hedge Transactions are expected to reduce the potential dilution of the Company's common stock upon conversion of the 2023 Notes, and/or offset any potential cash payments the Company is required to make in excess of the principal amount of converted 2023 Notes, as the case may be.

The Warrant Transactions were intended to partially offset the cost to the Company of the purchased Convertible Note Hedge Transactions; however, the Warrant Transactions could have a dilutive effect with respect to the Company's common stock, to the extent that the market price per share of the Company's common stock, as measured under the terms of the Warrant Transactions, exceeds the strike price of the warrants.

The liability component of the 2023 Notes consists of the following, (dollars in thousands):

	March 31, 2021	December 31, 2020
	(unaudited)	
2023 Notes	$ 402,500	$ 402,500
Unamortized debt discount and deferred financing costs	(36,462)	(40,749)
Total carrying value	$ 366,038	$ 361,751
Fair value (Level 2)	$ 389,922	$ 383,381

No 2023 Notes were converted as of March 31, 2021 or December 31, 2020.

9. Share-Based Payments

Share-based compensation expense is as follows (dollars in thousands):

	Three Months ended March 31,	
	2021	2020
	(unaudited)	
Research and development	$ 588	$ 681
Selling, general and administrative	3,783	3,307
Total	$ 4,371	$ 3,988

Stock Option and Stock Appreciation Rights

The following table summarizes stock option and stock appreciation rights (SAR) activities:

	Number of Options	Weighted-Average Exercise Price (per share)	Weighted-Average Remaining Contractual Term (in years)
Outstanding, December 31, 2020	5,451,862	$ 23.26	6.28
Granted	789,275	$ 29.61	
Exercised	(99,600)	$ 22.57	
Forfeited	(117,313)	$ 32.13	
Outstanding, March 31, 2021 (unaudited)	6,024,224	$ 23.93	6.66
As of December 31, 2020:			
Vested and expected to vest	5,451,862	$ 23.26	6.28
Exercisable	3,218,771	$ 19.36	4.77
As of March 31, 2021:			
Vested and expected to vest	6,024,224	$ 23.93	6.66
Exercisable	3,806,149	$ 21.06	5.29

Restricted Stock Units

The following table summarizes restricted stock unit (RSU) activities:

	Number of RSUs	Weighted-Average Grant Date Fair Value per Share
Nonvested, December 31, 2020	26,055	$ 23.99
Granted	21,110	$ 29.61
Vested	(26,055)	$ 23.99
Forfeited	—	$ —
Nonvested, March 31, 2021	21,110	$ 29.61

Performance Share Units

The following table summarizes performance share unit (PSU) activities:

	Performance-Based Units		Market-Based Units		Total PSUs	
	Number of PSUs	Weighted-Average Grant Date Fair Value per Share	Number of PSUs	Weighted-Average Grant Date Fair Value per Share	Number of PSUs	Weighted-Average Grant Date Fair Value per Share
Nonvested, December 31, 2020	—	$ —	15,625	$ 23.41	15,625	$ 23.41
Granted	80,000	$ 29.61	20,000	$ 28.63	100,000	$ 29.41
Nonvested, March 31, 2021	80,000	$ 29.61	35,625	$ 26.34	115,625	$ 28.60

There were no vested and forfeited PSU awards during the three months ended March 31, 2021.

10. Earnings per Share

Basic earnings per share (EPS) is calculated using the weighted-average number of common shares outstanding. Diluted EPS is calculated using the weighted-average number of common shares outstanding, including the dilutive effect of the Company's stock option grants, SARs, RSUs, employee stock purchase plan (ESPP) awards, and the 2023 Notes, as determined per the treasury stock method.

Effect of Convertible Notes and Related Convertible Note Hedges and Warrants

In connection with the issuance of the 2023 Notes, the Company entered into Convertible Note Hedge and Warrant Transactions as described further in Note 8, *Convertible Senior Notes Due 2023*. The expected collective impact of the Convertible Note Hedge and Warrant Transactions is to reduce the potential dilution that would occur if the price of the Company's common stock was between the conversion price of $59.33 per share and the strike price of the warrants of $80.9063 per share.

The 2023 Notes and related Convertible Note Hedge and Warrant Transactions are excluded in the calculation of diluted EPS because inclusion would be anti-dilutive.

In addition to the above described effect of the 2023 Notes and the related Convertible Note Hedge and Warrant Transactions, the Company also excluded the common stock equivalents of the following outstanding stock-based awards in the calculation of diluted EPS, because their inclusion would be anti-dilutive:

	Three Months ended March 31,	
	2021	2020
	(unaudited)	
Stock options, RSUs	1,419,203	3,034,099

The following table sets forth the computation of basic and diluted net earnings per share for the three months ended March 31, 2021 and 2020 (dollars in thousands, except share and per share amounts):

	Three Months ended March 31,	
	2021	2020
	(unaudited)	
Numerator:		
Net earnings	$ 5,694	$ 21,518
Denominator:		
Weighted average shares outstanding, basic	52,927,467	52,534,787
Effect of dilutive securities:		
Stock options, RSUs and SARs	1,269,504	1,046,264
Weighted average shares outstanding, diluted	54,196,971	53,581,051
Earnings per share, basic	$ 0.11	$ 0.41
Earnings per share, diluted	$ 0.11	$ 0.40

11. Income Tax Expense

The following table provides information regarding the Company's income tax expense for the three months ended March 31, 2021 and 2020 (dollars in thousands):

	Three Months ended March 31,			
	2021		2020	
	(unaudited)			
Income tax expense	$ 5,235		$ 7,516	
Effective tax rate	47.9	%	25.9	%

Income tax expense for the three months ended March 31, 2021, as compared to the same period in the prior year, decreased mainly due to lower earnings before taxes. The effective income tax rate increase was due to changes in the effective state tax rates as a result of the transfer of workforce between legal entities and lower earnings before taxes due to the expensing of the Navitor investment in the first quarter of 2021.

12. Leases

Operating Leases

The Company has operating leases for its headquarters lease and its fleet vehicles. With respect to the fleet vehicle leases, given the volume of individual leases involved in the overall arrangement, the Company applies a portfolio approach to effectively account for the operating lease assets and liabilities. The Company also elected to combine the lease and non-lease components for the fleet vehicle and headquarters leases.

The Company's headquarters lease commenced on February 1, 2019 (the Commencement Date) and will continue until April 30, 2034, unless earlier terminated in accordance with the terms of the lease. The lease includes options to extend the lease for up to 10 years.

Finance Lease

Contemporaneous with the USWM Acquisition, USWM Enterprises adopted ASC 842, *Leases*. USWM Enterprises had an existing contract manufacturing agreement with Merz Pharma GmbH & Co. KGaA (Merz), for the manufacture and supply of MYOBLOC (rimabotulinumtoxinB) and NerBloc® (finished products) (Merz Agreement). Pursuant to the Merz Agreement, Merz agreed to provide a dedicated manufacturing facility that included a stand-alone building, dedicated clean room suites, dedicated manufacturing and purification equipment, and filling and packaging production lines (collectively, the manufacturing facility) to manufacture finished products. The Merz Agreement will expire in July 2027, unless the Company and Merz mutually agree to extend the terms. The Merz Agreement may not be terminated for convenience. In addition, the Company's collaboration partner markets the drug in MYOBLOC, rimabotulinumtoxinB, in Japan under the trade name NerBloc.

Under the terms of the agreement, the Company is required to purchase a minimum quantity of finished products on an annual basis. This minimum purchase requirement represents the in-substance fixed contract consideration associated with the dedicated manufacturing facility which the Company accounts for as an embedded lease.

The embedded lease is preliminarily classified as a finance lease. The in-substance fixed contract consideration was allocated to the lease component, since the Company has preliminarily elected not to separate lease and non-lease components. Refer to Note 3, *USWM Acquisition*, for further discussion.

Operating and finance lease assets and lease liabilities as reported on the condensed consolidated balance sheets are as follows (dollars in thousands):

	Balance Sheet Classification	March 31, 2021	December 31, 2020
		(unaudited)	
Assets			
Operating lease assets	Other assets	$ 20,808	$ 20,231
Finance lease asset	Property and equipment, net	20,071	20,874
Total lease assets		$ 40,879	$ 41,105
Liabilities			
Lease liabilities, current			
Operating lease liabilities, current portion	Accounts payable and accrued liabilities	$ 4,242	$ 3,760
Finance lease liability, current portion	Other current liabilities	4,677	3,761
Lease liabilities, long term			
Operating lease liabilities, long term	Operating lease liabilities, long term	28,532	28,579
Finance lease liability, long term	Other liabilities	18,499	20,235
Total lease liabilities		$ 55,950	$ 56,335

13. Composition of Other Balance Sheet Items

The following details the composition of other balance sheet items (dollars in thousands for amounts in tables):

Accounts Receivables

As of March 31, 2021 and December 31, 2020, the Company has reduced accounts receivable by approximately $10.9 million and $11.4 million, respectively. Prompt pay discount and contractual service fees, which were originally recorded as reduction to revenues, represents estimated amounts not expected to be paid by our customers. The Company's customers are primarily pharmaceutical wholesalers and distributors and specialty pharmacies. Receivables from our three major customers account for more than 90% of our total receivables.

Inventories

	March 31, 2021	December 31, 2020
	(unaudited)	
Raw materials	$ 25,987	$ 22,208
Work in process	9,330	8,985
Finished goods	14,909	17,132
Total	$ 50,226	$ 48,325

In April 2021, the Company received regulatory approval for SPN-812 (Qelbree) for the treatment of ADHD in pediatric patients 6 to 17 years of age. Pre-launch inventory costs for Qelbree was $24.0 million and $19.1 million as of March 31, 2021 and December 31, 2020, respectively.

Inventories include acquired inventory from the USWM Acquisition. Refer to Note 3, *USWM Acquisition*, for further discussion of the USWM Acquisition.

Property and Equipment

	March 31, 2021	December 31, 2020
	(unaudited)	
Lab equipment and furniture	$ 13,322	$ 12,526
Leasehold improvements	12,453	15,183
Software	2,260	2,295
Finance lease assets	22,747	22,747
Computer equipment	1,839	2,113
	52,621	54,864
Less accumulated depreciation and amortization	(14,671)	(17,040)
Total	$ 37,950	$ 37,824

Depreciation and amortization expense on property and equipment was approximately $0.6 million and $0.5 million for the three months ended March 31, 2021, and 2020, respectively. The Company retired certain fully depreciated property and equipment for the three months ended March 31, 2021.

As of March 31, 2021, there were no identified indicators of impairment.

Accrued Payable and Accrued Liabilities

	March 31, 2021	December 31, 2020
	(unaudited)	
Accrued compensation	$ 13,080	$ 16,008
Accrued royalties [1]	10,635	13,890
Accrued clinical trial costs [2]	10,281	12,842
Accounts payable	5,954	6,147
Income taxes payable	5,744	—
Accrued product costs	4,999	9,587
Accrued professional fees	4,524	7,730
Operating lease liabilities, current portion [3]	4,242	3,760
Other accrued expenses	10,640	8,970
Total	$ 70,099	$ 78,934

[1] Refer to Note 15, *Commitments and Contingencies*.
[2] Includes preclinical and all clinical trial-related costs.
[3] Refer to Note 12, *Leases*.

Accrued Product Returns and Rebates

	March 31, 2021	December 31, 2020
	(unaudited)	
Accrued product rebates	$ 96,638	$ 96,589
Accrued product returns	32,098	29,603
Total	$ 128,736	$ 126,192

Other Liabilities

	March 31, 2021	December 31, 2020
	(unaudited)	
Nonrecourse liability related to sale of future royalties, long term	$ 11,763	$ 13,410
Finance lease liability, long term [(1)]	18,499	20,235
Other liabilities	9,413	9,146
Total	$ 39,675	$ 42,791

[(1)] Refer to Note 12, *Leases*.

14. Interest Expense

The following details the composition of interest expense (dollars in thousands):

	Three Months ended March 31,	
	2021	2020
	(unaudited)	
Interest expense	$ (5,062)	$ (4,693)
Interest expense on nonrecourse liability related to sale of future royalties	(1,035)	(1,062)
Total	$ (6,097)	$ (5,755)

Interest expense includes noncash interest expense related to amortization of deferred financing costs, and amortization of the debt discount on the 2023 Notes of $4.3 million and $4.1 million for the three months ended March 31, 2021, and 2020, respectively.

15. Commitments and Contingencies

Product Licenses

The Company has obtained exclusive licenses from third parties for proprietary rights to support certain products and product candidates. Under these license agreements, the Company may be required to pay certain amounts upon the achievement of defined milestones. If these products are ultimately commercialized, the Company is also obligated to pay royalties to third parties, computed as a percentage of net product sales, for each respective product under a license agreement.

Through the USWM Acquisition, the Company acquired licensing agreements with other pharmaceutical companies for APOKYN, XADAGO and MYOBLOC. The Company is obligated to pay royalties to third parties, computed as a percentage of net product sales, for each of the products under the respective license agreements. Royalty expense incurred is recognized as *Cost of goods sold* in the condensed consolidated statements of earnings.

Royalty Agreement

In the third quarter of 2014, the Company received $30 million pursuant to a Royalty Interest Acquisition Agreement related to the purchase, by HealthCare Royalty Partners III, L.P. (HC Royalty), of certain of the Company's rights under the Company's agreement with United Therapeutics Corporation. These rights are related to the commercialization of Orenitram (treprostinil) Extended-Release Tablets. Per the terms of the agreement, full ownership of the royalty rights will revert to the Company if and when a certain cumulative payment threshold is reached. Consequent to this agreement, the Company recorded a nonrecourse liability related to this transaction and amortizes this liability as noncash royalty revenue. Refer to Note 4,

Disaggregated Revenues, and Note 13, *Composition of Other Balance Sheet Items*.

USWM Enterprise Commitments Assumed

As part of the USWM Acquisition, the Company assumed the remaining commitments of USWM Enterprises and its subsidiaries, which are discussed below.

In addition to the annual minimum purchase quantity requirements of MYOBLOC, amounting to an estimated €3.0 million annually, under the contract manufacturing agreement with Merz for manufacture and supply, USWM Enterprises had an existing license and distribution agreement for XADAGO. This included an annual minimum promotional spend to support the marketing of XADAGO for the first five years of the agreement. As of March 31, 2021, the remaining contractual commitments were $2.4 million, of which $0.4 million is for the current period through June 2021 and the remainder is for the period from July 2021 to June 2020. Refer to Note 3, *USWM Acquisition*, for further discussion on the USWM Acquisition and Note 12, *Leases*, for further discussion on the Merz Agreement.

In March 2019, which is prior to the USWM Acquisition Closing Date, MDD US Operations, LLC (formerly US WorldMeds, LLC) and its subsidiary, Solstice Neurosciences, LLC (US) (collectively, the MDD Subsidiaries) entered into a Corporate Integrity Agreement (CIA) with the Office of Inspector General of the U.S. Department of Health and Human Services. Under the CIA, the MDD Subsidiaries agreed to and paid $17.5 million to resolve U.S. Department of Justice allegations that it violated the False Claims Act and committed to the establishment and ongoing maintenance of an effective compliance program. The fine was paid by the MDD Subsidiaries prior to closing of the USWM Acquisition. As part of the USWM Acquisition, the Company assumed the remaining obligations of the CIA and could become liable for payment of certain stipulated monetary penalties in the event of any CIA violations. In addition, the Company will continue to incur significant costs through March 2024 to maintain a broad array of processes, policies and procedures necessary to comply with the CIA.

Claims and Litigation

From time to time, the Company may be involved in various claims, litigation and legal proceedings. These matters may involve patent litigation, product liability and other product-related litigation, commercial and other matters, and government investigations, among others. On a quarterly basis, the Company reviews the status of each significant matter and assesses its potential financial exposure. If the potential loss from any claim, asserted or unasserted, or legal proceeding is considered probable and the amount can be reasonably estimated, the Company will accrue a liability for the estimated loss. Because of uncertainties related to claims, legal proceedings and litigation, accruals will be based on the Company's best estimates based on available information. We do not believe that any of these matters will have a material adverse effect on our financial position. The Company may reassess the potential liability related to these matters and may revise these estimates, which could result in material adverse adjustments to the Company's operating results.

16. Subsequent Events

In April 2021, the Company notified the European Medicine Agency that it will cease the marketing of rimabotulinumtoxinB (NeuroBloc) in European countries.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

Management's Discussion and Analysis of Financial Condition and Results of Operations is intended to help the reader understand the results of operations and the financial condition of Supernus Pharmaceuticals, Inc. (the Company, we, us, or our). The interim condensed consolidated financial statements included in this report and this Management's Discussion and Analysis of Financial Condition and Results of Operations should be read in conjunction with our audited consolidated financial statements and notes thereto for the year ended December 31, 2020 and the related Management's Discussion and Analysis of Financial Condition and Results of Operations, both of which are contained in our Annual Report on Form 10-K, filed with the Securities and Exchange Commission on March 8, 2021.

In addition to historical information, this Quarterly Report on Form 10-Q contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended, which are intended to be covered by the safe harbors created thereby. These forward-looking statements may include declarations regarding the Company's belief or current expectations of management, such as statements including the words "budgeted," "anticipate," "project," "forecast," "estimate," "expect," "may," "believe," "potential," and similar statements or expressions, which are intended to be among the statements that are forward-looking statements, as such statements reflect the reality of risk and uncertainty that is inherent in our business. Actual results may differ materially from those expressed or implied by such forward-looking statements. Readers are cautioned not to place undue reliance on these forward-looking statements, which are made as of the date this report was filed with the Securities and Exchange Commission. Our actual results and the timing of events could differ materially from those discussed in our forward-looking statements as a result of many factors, including those set forth under the "Risk Factors" section of our Annual Report on Form 10-K and elsewhere in this report as well as in other reports and documents we file with the Securities and Exchange Commission from time to time. Except as required by law, we undertake no obligation to update any forward-looking statements to reflect events or circumstances occurring after the date of this Quarterly Report on Form 10-Q.

Solely for convenience, in this Quarterly Report on Form 10-Q, the trade names are referred to without the TM symbols and the trademark registrations are referred to without the circled R, but such references should not be construed as any indicator that the Company will not assert, to the fullest extent under applicable law, our rights thereto.

Overview

We are a biopharmaceutical company focused on developing and commercializing products for the treatment of central nervous system (CNS) diseases. Our diverse neuroscience portfolio includes approved treatments for epilepsy, migraine, attention-deficit hyperactivity disorder (ADHD), hypomobility in Parkinson's Disease (PD), cervical dystonia, and chronic sialorrhea. We are developing a broad range of novel CNS product candidates including new potential treatments for ADHD, hypomobility in PD, epilepsy, depression, and rare CNS disorders.

In April 2021, the U.S. Food and Drug Administration (FDA) approved Qelbree for the treatment of ADHD in pediatric patients 6 to 17 years of age. The Company plans to make Qelbree available in the U.S. during the second quarter of 2021.

On April 28, 2020, the Company entered into a Sale and Purchase Agreement with US WorldMeds Partners, LLC to acquire the CNS portfolio of USWM Enterprises, LLC (USWM Enterprises) (USWM Acquisition). With the acquisition, completed on June 9, 2020, the Company added three established commercial products and a product candidate in late-stage development to its portfolio. These commercial products, APOKYN, XADAGO, and MYOBLOC, are primarily for the treatment of PD.

On April 21, 2020, the Company entered into a Development and Option Agreement (Development Agreement) with Navitor Pharmaceuticals, Inc. (Navitor Inc.). Under the terms of the Development Agreement, the Company and Navitor Inc. will jointly conduct a Phase II clinical program for NV-5138 (SPN-820) in treatment resistant depression (TRD). In addition to entering into the Development Agreement in April 2020, the Company acquired an ownership position in Navitor Inc. In March 2021, Navitor Inc. underwent a legal restructuring whereby Navitor Inc. became a wholly owned subsidiary of a newly formed limited liability company, Navitor Pharmaceuticals, LLC (Navitor LLC) (Navitor Restructuring).

We have a portfolio of commercial products and product candidates.

Commercial Products

- Trokendi XR® (topiramate) is the first once-daily extended release topiramate product indicated for the treatment of epilepsy in the United States (U.S.) market. It is also indicated for the prophylaxis of migraine headache.
- Oxtellar XR® (oxcarbazepine) is indicated as therapy for partial onset seizures in adults and children 6 years to 17 years of age and is the first once-daily extended-release oxcarbazepine product indicated for the treatment of epilepsy in the U.S.
- Qelbree™ (viloxazine extended-release capsules) is a novel non-stimulant product indicated for the treatment of ADHD in pediatric patients 6 to 17 years of age.
- APOKYN® (apomorphine hydrochloride injection) is a product indicated for the acute, intermittent treatment of hypomobility or "off" episodes ("end-of-dose wearing off" and unpredictable "on-off" episodes) in patients with advanced PD.
- MYOBLOC® (rimabotulinumtoxinB) is a product indicated for the treatment of cervical dystonia and sialorrhea in adults, and it is the only Type B toxin available on the market.
- XADAGO® (safinamide) is a once-daily product indicated as adjunctive treatment to levodopa/carbidopa in patients with PD experiencing "off" episodes.

Product Candidates

- SPN-812 (viloxazine hydrochloride) is a novel non-stimulant product candidate for the treatment of ADHD in adult patients.
- SPN-830 (Apomorphine Infusion Pump) is a late-stage drug/device combination product candidate for the continuous prevention of "off" episodes in PD.
- SPN-817 is a novel product candidate for the treatment of severe epilepsy.

- SPN-820 is a first-in-class product candidate for TRD. It is an orally active small molecule that directly activates brain mechanistic target of rapamycin complex 1 (mTORC1).

Operational Highlights

Qelbree Launch Update

- In April 2021, the U.S. Food and Drug Administration (FDA) approved Qelbree for the treatment of attention-deficit hyperactivity disorder (ADHD) in pediatric patients 6 to 17 years of age. We plan to make Qelbree available in the U.S. during the second quarter of 2021.

- We will conduct post-marketing commitment studies, including a new study of Qelbree in preschool aged children with ADHD, 4 to 5 years of age. The completion of these studies responds to a written request from the FDA and should therefore result in the FDA granting an additional 6 months of market exclusivity.

Product Pipeline Update

Qelbree (viloxazine, extended-release capsules) - Novel non-stimulant for the treatment of ADHD in adults

- In December 2020, we announced positive results from a Phase III trial in adult patients with ADHD and plans to submit a supplemental New Drug Application (sNDA) to the FDA for Qelbree in adults in the third quarter of 2021.

SPN-830 (apomorphine infusion pump) - Continuous treatment of motor fluctuations ("on-off" episodes) in PD

- We recently met with the FDA to discuss the path forward for resubmission of the SPN-830 NDA. The FDA provided additional clarity related to the contents of the November 2020 Refusal to File (RTF) letter and the requirements for resubmission. We now plan to resubmit the SPN-830 NDA in the second half of 2021.

SPN-820 - Novel first-in-class activator of mTORC1

- SPN-820 has advanced to a Phase II clinical program in treatment-resistant depression following the successful completion of a multiple-ascending dose (MAD) study in healthy volunteers. In the MAD study, SPN-820 exhibited a favorable safety and tolerability profile across a broad range of potentially therapeutic doses.

- We expect to initiate a randomized Phase II clinical study in treatment-resistant depression by the end of 2021.

Critical Accounting Policies and the Use of Estimates

Our condensed consolidated financial statements are prepared in accordance with U.S. generally accepted accounting principles (U.S. GAAP), requiring us to make estimates, judgments, and assumptions that affect the reported amounts of assets, liabilities, revenues, and expenses, and other related disclosures. Some judgments can be subjective and complex, and therefore, actual results could differ materially from those estimates under different assumptions or conditions. We believe the judgments, estimates, and assumptions associated with the following critical accounting policies have the greatest potential impact on our condensed consolidated financial statements:

- Revenue recognition;
- Business combination accounting and valuation of acquired assets, including goodwill and intangible assets;
- Valuation of contingent consideration; and
- Income taxes.

There were no changes to the disclosures with respect to the above listed critical accounting policies in our Annual Report on Form 10-K for the year ended December 31, 2020. A summary of our significant accounting policies appears in the notes to our audited consolidated financial statements included in the Annual Report on Form 10-K for the year ended December 31, 2020.

Results of Operations

Comparison of the Three Months Ended March 31, 2021 and 2020

Revenues

Revenues consist primarily of net product sales of our commercial products in the U.S., supplemented by royalty revenues from our collaborative licensing arrangements. The following table provides information regarding our revenues during the three months ended March 31, 2021 (dollars in thousands):

	Three Months ended March 31,		Change	
	2021	2020	Amount	Percent
Net product sales				
Trokendi XR	$ 71,819	$ 68,551	$ 3,268	5%
Oxtellar XR	27,370	23,939	3,431	14%
APOKYN	21,730	—	21,730	**
MYOBLOC	4,240	—	4,240	**
XADAGO	3,222	—	3,222	**
Total net product sales	$ 128,381	$ 92,490	$ 35,891	39%
Royalty revenues	2,551	2,486	65	3%
Total revenues	$ 130,932	$ 94,976	$ 35,956	38%

The $35.9 million and 39% increase in net product sales for the three months ended March 31, 2021, as compared to the same period in 2020, was primarily due to the inclusion of $29.2 million in net product sales, consequent to the completion of the USWM acquisition on June 9, 2020. The combined annual growth of Trokendi XR and Oxtellar XR was $6.7 million or 7% as compared to the same period in 2020.

Trokendi XR net product sales increased by 5% to $71.8 million for the three months ended March 31, 2021 as compared to the same period in 2020. This increase was attributable to the favorable impact of the price increase taken in January 2021, coupled with favorable improvements in sales deductions that offset a decline in unit demand. Oxtellar XR net product sales increased by 14% to $27.4 million for the three months ended March 31, 2021 as compared to the same period in 2020. This increase was primarily attributable to the favorable impact of both unit demand and a price increase in January 2021.

Sales Deductions and Related Accruals

We record accrued product rebates and accrued product returns as current liabilities in *Accrued product returns and rebates*, on our condensed consolidated balance sheets. We record sales discounts as a reduction against *Accounts receivable* on the condensed consolidated balance sheets. Both amounts are generally affected by changes in gross product sales, changes in the provision for net product sales deductions, and the timing of payments/credits.

The following table provides a summary of activity with respect to sales deductions and related accruals during the periods indicated (dollars in thousands):

	Accrued Product Returns and Rebates		Reduction to Accounts Receivable for Sales Discounts	Total
	Product Rebates	Product Returns		
Balance at December 31, 2020	$ 96,589	$ 29,603	$ 11,404	$ 137,596
Provision				
Provision for current year sales	94,379	3,267	16,943	114,589
Adjustments relating to prior year sales	777	(507)	10	280
Total provision	$ 95,156	$ 2,760	$ 16,953	$ 114,869
Less: Actual payments/credits	(95,107)	(265)	(17,468)	(112,840)
Balance at March 31, 2021	$ 96,638	$ 32,098	$ 10,889	$ 139,625

Increased product rebates were primarily attributable to greater utilization of our patient co-payment programs, as well as higher per patient payments under both Medicaid and commercial managed care programs. The increase in product returns balance is primarily due to the timing of related return activity.

Royalty Revenues

Royalty revenues include a royalty from net product sales of Mydayis, a product of Takeda Pharmaceuticals Company Ltd., and noncash royalty revenue pursuant to our agreement with Healthcare Royalty Partners III, L.P. (HC Royalty). HC Royalty receives royalty payments from United Therapeutics Corporation (United Therapeutics) based on net product sales of United Therapeutics' product Orenitram.

Royalty revenues were $2.6 million and $2.5 million for the three month period ended March 31, 2021 and 2020, respectively.

Cost of Goods Sold

Cost of goods sold was $15.0 million and $4.2 million for the three months ended March 31, 2021 and 2020, respectively. The $10.8 million increase was primarily attributable to inclusion of cost of goods sold of the acquired commercial products from the USWM Acquisition. Royalty payments associated with APOKYN and XADAGO made up the majority of this cost increase.

Research and Development Expenses

The following table provides information regarding our research and development (R&D) expenses during the periods indicated (dollars in thousands):

	Three Months ended March 31,		Change	
	2021	2020	Amount	Percent
Direct Project Costs [1]				
SPN-812	$ 3,968	$ 9,062	$ (5,094)	(56)%
SPN-830	203	—	203	**
SPN-820	2,605	—	2,605	**
SPN-810	707	1,366	(659)	(48)%
Others	2,837	2,525	312	12%
	10,320	12,953	(2,633)	(20)%
Other R&D expense	$ 15,000	$ —	$ 15,000	**
Indirect Project Costs [1]				
Share-based compensation	588	681	(93)	(14)%
Other indirect overhead	8,372	5,303	3,069	58%
	8,960	5,984	2,976	50%
Research and development expense	$ 34,280	$ 18,937	$ 15,343	81%

[1] Direct costs, which include personnel costs and related benefits, are recorded on a project-by-project basis. Many of our R&D costs are not attributable to any individual project because we share resources across several development projects. Indirect costs that support a number of our R&D activities are recorded in the aggregate, including stock-based compensation.

R&D expenses was $34.3 million and $18.9 million for the three months ended March 31, 2021 and 2020, respectively. The $15 million increase was primarily due to the write-down of the investment in Navitor LLC. In addition, increased cost associated with developmental activities related to SPN-820, regulatory activities related to the acquired products, were generally offset by a decrease in the cost of SPN-812 development activities. Refer to Part I, Item 1, Unaudited Condensed Consolidated Financial Statements, Note 5, *Investments*, in the Notes to the Condensed Consolidated Financial Statements, for further discussion of the write-down of the investment in Navitor LLC.

Selling, General and Administrative Expenses

The following table provides information regarding our selling, general and administrative (SG&A) expenses during the periods indicated (dollars in thousands):

	Three Months ended March 31,		Change	
	2021	2020	Amount	Percent
Selling and marketing	$ 38,447	$ 29,041	$ 9,406	32%
General and administrative	23,010	12,573	$ 10,437	83%
Total	$ 61,457	$ 41,614	$ 19,843	48%

Selling, general and administrative expenses were $61.5 million and $41.6 million for the three months ended March 31, 2021 and 2020, respectively. The $19.8 million increase was primarily attributable to increased marketing expenses and professional consulting spend related to the commercial products, including the acquired commercial products from the USWM

Acquisition, and preparations for the launch of Qelbree. In addition, employee-related expenses also increased due to increased headcount consequent to the acquired employees from the USWM Acquisition.

Amortization of Intangible Assets

Amortization of intangible assets was $6.0 million and $1.3 million for the three months ended March 31, 2021 and 2020, respectively. The $4.7 million increase was primarily due to amortization of the definite-lived intangible assets acquired in the USWM Acquisition.

Contingent Consideration Expense

Contingent consideration expense of $1.0 million for the three months ended March 31, 2021 represents the increase in the fair value of the contingent consideration liabilities associated with the USWM Acquisition due to the passage of time.

Other Income (Expense)

Other income (expense) was an expense of $2.3 million and income of $22.0 thousand for the three months ended March 31, 2021 and 2020, respectively. The $2.3 million decrease was primarily due to lower interest income on marketable securities holdings.

Income Tax Expense

Income tax expense was $5.2 million and $7.5 million for the three months ended March 31, 2021 and 2020, respectively. The decrease was mainly due to lower earnings before taxes. The effective income tax rate was 47.9% and 25.9% for the three months ended March 31, 2021 and 2020, respectively. The effective income tax rate increase was due to changes in the effective state tax rates as a result of the transfer of workforce between legal entities and lower earnings before taxes due to the expensing of the Navitor investment in the first quarter of 2021.

Liquidity and Capital Resources

We have financed our operations primarily with cash generated from product sales, supplemented by cash generated by revenue from royalty and licensing arrangements, as well as proceeds from the sale of equity and debt securities. Continued cash generation is highly dependent on the continued commercial success of our commercial products as well as the commercial success of our product candidates, if approved by the U.S. Food and Drug Administration (FDA).

While we expect continued profitability in future years, we anticipate there may be significant variability from year to year in the level of our profits, particularly as we move forward with the anticipated commercial launch of Qelbree, and the likely unfavorable impact of the upcoming loss of patent exclusivity for Trokendi XR in January 2023, or sooner under certain conditions.

We believe our existing cash and cash equivalents, marketable securities, and cash received from product sales will be sufficient to finance ongoing operations, develop and launch our new products, and fund label expansions for existing products. To continue to grow our business over the long-term, we plan to commit substantial resources to: product development and clinical trials of product candidates; business development, including acquisition and product in-licensing; and supportive functions such as compliance, finance, management of our intellectual property portfolio, information technology systems, and personnel. In each case, spending would be commensurate with the growth and needs of the business.

We may, from time to time, consider raising additional capital through: new collaborative arrangements; strategic alliances; additional equity and/or debt financings; or financing from other sources, especially in conjunction with opportunistic business development initiatives. We will continue to actively manage our capital structure and to consider all financing opportunities that could strengthen our long-term financial profile. Any such capital raises may or may not be similar to transactions in which we have engaged in the past. There can be no assurance that any such financing opportunities will be available on acceptable terms, if at all.

Financial Condition

Cash and cash equivalents, marketable securities, and long term marketable securities as of the periods presented below, are as follows (dollars in thousands):

	March 31 2021	December 31 2020	Change Amount	Change Percent
Cash and cash equivalents	$ 255,642	$ 288,640	$ (32,998)	(11)%
Marketable securities	135,459	133,893	1,566	1%
Long term marketable securities	416,566	350,359	66,207	19%
Total	$ 807,667	$ 772,892	$ 34,775	4%

Total cash and cash equivalents, marketable securities and long term marketable securities increased by $34.8 million in the first three months of 2021, primarily due to cash generated from ongoing operations.

As of March 31, 2021 and December 31, 2020, the outstanding principal on our 0.625% Convertible Senior Notes Due 2023 (2023 Notes) was $402.5 million. No 2023 Notes have been converted as of March 31, 2021. There were no changes to the separate convertible note hedge transactions (collectively, the Convertible Note Hedge Transactions) and separate warrant transactions (the Warrant Transactions). Refer to Part I, Item 1, Unaudited Condensed Financial Statements, Note 8, *Convertible Senior Notes Due 2023*, in the Notes to the Condensed Consolidated Financial Statements, for further discussion of the 2023 Notes and our other indebtedness.

Summary of Cash Flows

The following table summarizes the major sources and uses of cash for the periods set forth below (dollars in thousands):

	Three Months ended March 31, 2021	Three Months ended March 31, 2020	Change Amount
Net cash provided by (used in):			
Operating activities	$ 36,200	$ 8,916	$ 27,284
Investing activities	(71,445)	35,438	(106,883)
Financing activities	2,247	32	2,215
Net change in cash and cash equivalents	$ (32,998)	$ 44,386	$ (77,384)

Operating Activities

Net cash provided by operating activities was $36.2 million and $8.9 million for the three months ended March 31, 2021, and 2020, respectively. The increase in cash flows provided by operating activities is primarily due to changes in working capital which reflects the timing impacts of: cash collections on receivables; increases in accrued product returns and rebates; and settlement of payables.

Investing Activities

Net cash used in investing activities was $71.4 million for the three months ended March 31, 2021, as compared to $35.4 million net cash provided by investing activities for the same period in 2020. The change was primarily due to an increase in net purchases of marketable securities in 2021 resulting from investment of excess cash in long term marketable securities as compared to the same period in prior year.

Financing Activities

Net cash provided by financing activities for the three months ended March 31, 2021 increased by $2.2 million, as compared to the same period in 2020, primarily due to higher proceeds from option exercises.

Contractual Obligations and Commitments

Refer to the “Contractual Obligations and Commitments” section in “Part II, Item 7 — Management’s Discussion and Analysis of Liquidity and Capital Resources”, of our Annual Report on Form 10-K for the year ended December 31, 2020, and Note 15, *Commitments and Contingencies*, in the Notes to the Condensed Consolidated Financial Statements in Part I, Item 1,

Unaudited Condensed Financial Statements, of this Quarterly Report on Form 10-Q for the discussion of our contractual obligations.

Off-Balance Sheet Arrangements

Other than the unconsolidated variable interest entities discussed in Part I, Item 1, Unaudited Condensed Financial Statements, of this Quarterly Report on Form 10-Q, we do not currently have, nor have we ever had, any relationships with unconsolidated entities or financial partnerships, such entities often referred to as structured finance or special purpose entities. These would have been established for the purpose of facilitating off-balance sheet arrangements or for other contractually narrow or limited purposes.

In addition, we do not engage in trading activities involving non-exchange traded contracts.

Recently Issued Accounting Pronouncements

For a discussion of new accounting pronouncements, see Note 2 in the Notes to the Condensed Consolidated Financial Statements in Part I, Item 1, Unaudited Condensed Financial Statements, of this Quarterly Report on Form 10-Q.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

The primary objective of our investment activities is to preserve our capital to fund operations and to facilitate business development activities. We also seek to maximize income from our investments without assuming significant interest rate risk, liquidity risk, or risk of default by investing in investment grade securities with maturities of four years or less. Our exposure to market risk is confined to investments in cash, cash equivalents, marketable securities, and long term marketable securities. As of March 31, 2021, we had unrestricted cash, cash equivalents, marketable securities, and long term marketable securities of $807.7 million.

In connection with the 2023 Notes, we have separately entered into Convertible Note Hedge Transactions and Warrant Transactions to reduce the potential dilution of the Company’s common stock upon conversion of the 2023 Notes, and to partially offset the cost to purchase the Convertible Note Hedge Transactions, respectively.

Our cash and cash equivalents consist primarily of cash held at banks and investments in highly liquid financial instruments with an original maturity of three months or less. Our marketable securities as of March 31, 2021, which are reported at fair value, consist of investment grade corporate debt securities. We place all investments with governmental, industrial, or financial institutions whose debt is rated as investment grade. We generally hold these securities to maturities of one to four years. Because of the relatively short period that we hold our investments and because we generally hold these securities to maturity, we do not believe that a change in interest rates would have any significant impact on the realizable value of our investments. We do not have any currency or other derivative financial instruments other than outstanding warrants to purchase common stock and the convertible note hedges.

We may contract with clinical research organizations (CROs), investigational sites and contract manufacturing organizations (CMOs) globally. Currently, we have only one ongoing trial, for SPN-817, outside the U.S. We have CMOs outside of the U.S. who manufacture and supply certain of our clinical and commercial products and raw materials. We do not hedge our foreign currency exchange rate risk. Transactions denominated in currencies other than the U.S. dollar are recorded based on exchange rates at the time such transactions arise. As of March 31, 2021 and December 31, 2020, substantially all of our liabilities were denominated in the U.S. dollar. We do not believe that changes in foreign currency exchange rates over the quarters ended March 31, 2021 and December 31, 2020 had a significant impact on our consolidated results of operations.

Inflation generally affects us by increasing our cost of labor and the cost of services provided by our vendors. We do not believe that inflation and changing prices over the quarters ended March 31, 2021 and December 31, 2020 had a significant impact on our consolidated results of operations.

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

We maintain disclosure controls and procedures over financial reporting, as defined in Rule 13a-15(e) of the Securities Exchange Act of 1934, as amended, or the Exchange Act. Our disclosure controls and procedures are designed to provide reasonable assurance that the information required to be disclosed in the reports we file or submit under the Exchange Act has been appropriately recorded, processed, summarized and reported within the time periods specified in the Securities and

Exchange Commission's rules and forms. Moreover, such information is accumulated and communicated to our management, including our CEO and CFO, to allow timely decisions regarding required disclosure.

We conducted an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures over financial reporting as of March 31, 2021, the end of the period covered by this report. Based on that evaluation, under the supervision and with the participation of our management, including our CEO and CFO, we concluded that our disclosure controls and procedures were effective as of March 31, 2021.

Changes in Internal Control over Financial Reporting

On June 6, 2020, the Company completed the USWM Acquisition. As of March 31, 2021, the integration of the internal controls relating to the business acquired through the USWM Acquisition into ours has been substantially completed, with the exception of the business combination accounting that will be completed during the second quarter of 2021, and the acquired business will be included in our evaluation of the effectiveness of our internal control over financial reporting for fiscal 2021. During the three months ended March 31, 2021, no changes occurred in our internal control over financial reporting that materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II — OTHER INFORMATION

Item 1. Legal Proceedings

From time to time and in the ordinary course of business, we may be subject to various claims, charges and litigation. We may be required to file infringement claims against third parties for the infringement of our patents.

Oxtellar XR®

The Company received a Paragraph IV Notice Letter from generic drug maker RiconPharma, LLC ("Ricon") dated April 20, 2021 directed to nine of its Oxtellar XR® Orange Book patents. Supernus's U.S. Patent Nos. 7,722,898; 7,910,131; 8,617,600; 8,821,930; 9,119,791; 9,351,975; 9,370,525; 9,855,278; and 10,220,042 generally cover once-a-day oxcarbazepine formulations and methods of treating seizures using those formulations. The FDA Orange Book lists all nine of the Company's Oxtellar XR® patents as expiring on April 13, 2027. Supernus is reviewing the details of Ricon's Notice Letter and intends to vigorously enforce its intellectual property rights relating to Oxtellar XR®.

The Company received a Paragraph IV Notice Letter from generic drug makers Apotex Inc. and Apotex Corp. (collectively "Apotex") dated May 13, 2020 directed to nine of its Oxtellar XR® Orange Book patents. Supernus's U.S. Patent Nos. 7,722,898; 7,910,131; 8,617,600; 8,821,930; 9,119,791; 9,351,975; 9,370,525; 9,855,278; and 10,220,042 generally cover once-a-day oxcarbazepine formulations and methods of treating seizures using those formulations. The FDA Orange Book lists all nine of the Company's Oxtellar XR® patents as expiring on April 13, 2027. On June 26, 2020, the Company filed a lawsuit against Apotex alleging infringement of the Company's nine patents. The Complaint—filed in the U.S. District Court for the District of New Jersey—alleges, inter alia, that Apotex infringed the Company's Oxtellar XR® patents by submitting to the FDA an Abbreviated New Drug Application ("ANDA") seeking to market a generic version of Oxtellar XR® prior to the expiration of the Company's patents. Filing its June 26, 2020 Complaint within 45 days of receiving Apotex's Paragraph IV certification notice entitles Supernus to an automatic stay preventing the FDA from approving Apotex's ANDA for 30 months from the date of the Company's receipt of the Paragraph IV Notice Letter. On September 4, 2020, Apotex answered the Complaint and denied the substantive allegations of the Complaint. Apotex also asserted Counterclaims seeking declaratory judgments of non-infringement for the nine Oxtellar XR® Orange Book patents. On October 30, 2020, the Company filed its Reply, denying the substantive allegations of Apotex's Counterclaims. Following the initial Rule 16 Scheduling Conference, the Court issued a case schedule that provides for a trial in June or July 2022. Pretrial discovery is ongoing as of the date of this filing.

Trokendi XR®

The Company received a Paragraph IV Notice Letter from generic drug makers Ajanta Pharma Limited and Ajanta Pharma USA Inc. (collectively "Ajanta") dated February 10, 2021 directed to ten of its Trokendi XR® Orange Book patents. Supernus's U.S. Patent Nos. 8,298,576; 8,298,580; 8,663,683; 8,877,248; 8,889,191; 8,992,989; 9,549,940; 9,555,004; 9,622,983; and 10,314,790 generally cover once-a-day topiramate formulations and methods of treating or preventing seizures and migraines using those formulations. The FDA Orange Book currently lists U.S. Patent No. 8,298,576 as expiring on April 4, 2028 and U.S. Patent Nos. 8,298,580; 8,663,683; 8,877,248; 8,889,191; 8,992,989; 9,549,940; 9,555,004; 9,622,983; and 10,314,790 as expiring on November 16, 2027. On March 26, 2021, the Company filed a lawsuit against Ajanta alleging infringement of the Company's Trokendi XR® Orange Book patents. The Complaint—filed in the U.S. District Court for the District of New Jersey—alleges,

inter alia, that Ajanta infringed the Company's Trokendi XR® patents by submitting to the FDA an ANDA seeking to market a generic version of Trokendi XR® prior to the expiration of the Company's patents. Filing its March 26, 2021 Complaint within 45 days of receiving Ajanta's Paragraph IV certification notice entitles Supernus to an automatic stay preventing the FDA from approving Ajanta's ANDA for 30 months from the date of the Company's receipt of the Paragraph IV Notice Letter.

XADAGO®

OIn April 29, 2021, Newron Pharmaceuticals S.p.A. ("Newron") received a Paragraph IV Notice Letter ("Notice Letter") from Aurobindo Pharma Limited, India and its wholly owned subsidiary Aurobindo Pharma USA Inc. (collectively "Aurobindo") , advising Newron of the filing by Aurobindo of an Abbreviated New Drug Application to the U.S. Food and Drug Administration ("FDA") seeking approval for safinamide tablets. The Notice Letter is directed to the three XADAGO patents with U.S. patent numbers 8,076,515, 8,278,485 and 8,283,380, that expire between June 2027 and December 2028 and are listed in the FDA's publication, Approved Drug Products with Therapeutic Equivalence Evaluations, commonly referred to as the Orange Book. The Company has a license agreement with Zambon S.p.A., Newron's partner, related to the XADAGO Patents, and as a new chemical entity, XADAGO is under the 5 year FDA exclusivity period that expires on March 21, 2022. The Company is currently reviewing the details of this Notice Letter with its partners to respond as appropriate to protect the intellectual property rights relating to XADAGO.

Item 1A. Risk Factors

Any investment in our business involves a high degree of risk. Before making an investment decision, you should carefully consider the information we include in this Quarterly Report on Form 10-Q, including our condensed consolidated financial statements and related notes; the additional information in the other reports we file with the Securities and Exchange Commission; and the risks described in our Annual Report on Form 10-K for the year ended December 31, 2020. These risks may result in material harm to our business and our financial condition and results of operations. If a material, adverse event were to occur, the market price of our common stock may decline and you could lose part or all of your investment.

The risks described below reflect substantive changes from, or additions to, the risks described in our Annual Report on Form 10-K for the year ended December 31, 2020.

Risks Related to Our Industry and Business

We are dependent on the commercial success of our products in the U.S.

Our financial performance, including our ability to replace revenue and income lost to generic products and other competitors as well as to grow our business, depends heavily on the commercial success of our products. A substantial amount of our resources are focused on generating, maintaining and/or expanding the revenue generated by our approved products in the U.S. If any of our major products, Trokendi XR, Oxtellar XR, Qelbree or APOKYN, were to become subject to problems, such as changes in prescription growth rates, unexpected side effects, loss of intellectual property protection, supply chain or product supply shortages, regulatory proceedings, changes in labeling, publicity adversely affecting doctor or patient confidence in our product, material product liability litigation, pressure from new or existing competitive products, or adverse changes in coverage under managed care programs, the adverse impact on our revenue and profit could be significant. In addition, our revenue and profit could be significantly impacted by the timing and rate of commercial acceptance of key new products.

Our ability to generate significant product revenue from sales of our products in the near term will depend on, among other things, our ability to:

- Defend our patents, intellectual property, and products from the competition, both branded and generic;
- Maintain commercial manufacturing arrangements with third-party manufacturers;
- Produce, through a validated process, sufficiently large quantities of our products to meet demand;
- Continue to maintain a wide variety of internal sales, distribution, and marketing capabilities, sufficient to sustain and grow revenue;
- Continue to maintain and grow widespread acceptance of our products from physicians, health care payors, patients, pharmacists, and the medical community;
- Properly price and obtain adequate reimbursement coverage of these products by governmental authorities, private health insurers, managed care organizations, and other third-party payors;
- Maintain compliance with ongoing FDA labeling, packaging, storage, advertising, promotion, recordkeeping, safety, and other post-market requirements;
- Obtain approval from the FDA to expand the labeling of our approved products for additional indications;

- Adequately protect against and effectively respond to any claims by holders of patents and other IP rights alleging that our products infringe their rights; and
- Adequately protect against and effectively respond to any unanticipated adverse effects or unfavorable publicity that develops with respect to our products, as well as respond to the emergence of new or existing competitive products, which may be proven to be more clinically effective and cost-effective.

There are no guarantees that we will be successful in completing these tasks. We will need to continue investing substantial financial and management resources to maintain our commercial sales and marketing infrastructure and recruit and train qualified marketing, sales, and other personnel.

Sales of our products may slow for a variety of reasons, including competing products or safety issues. Any increase in sales of our products will be dependent on several factors, including our ability to educate physicians, to increase physician awareness, and physician acceptance of the benefits and cost-effectiveness of our products relative to competing products.

Our ability to increase market acceptance of any of our products or to gain market acceptance of approved product candidates among physicians, patients, health care payors, and the medical community will depend on a number of factors, including:

- Acceptable evidence of safety and efficacy;
- Relative convenience and ease of administration;
- Prevalence, nature, and severity of any adverse side effects;
- Availability of alternative treatments, including branded and generic products; and
- Pricing and cost effectiveness.

Further, our products are subject to continual review by the FDA. We cannot provide assurance that newly discovered or reported safety issues would not arise. With the use of any marketed drug by a broader patient population, serious adverse events may occur from time to time that initially does not appear to be related to the drug itself. Any safety issues could cause us to suspend or to cease marketing of our approved products; cause us to modify how we market our approved products; subject us to substantial liabilities; and adversely affect our revenues and financial condition. In the event of a withdrawal of any of our products from the market, our revenues would decline significantly, and our business would be seriously harmed and could fail.

In addition, we have expressed certain long term revenue expectations. If we are not successful in broadening and/or maintaining the current commercial acceptance of our products, such that we cannot achieve those revenue expectations with respect to such products, this could result in a material adverse impact on our anticipated revenue, earnings, and liquidity.

If other versions of extended or controlled release oxcarbazepine or topiramate, or other products including generics containing apomorphine hydrochloride or viloxazine hydrochloride, are approved and successfully commercialized, our business could be materially harmed.

Third parties have, and in the future may, receive approval to manufacture and market their own versions of extended release topiramate in the U.S. For example, Upsher-Smith launched Qudexy XR (extended release topiramate) and a branded generic version of Qudexy XR in 2014. Upsher Smith also entered into a settlement with two generic companies to launch a generic to Qudexy XR in 2020. In February 2021, one of the generic companies, Glenmark, entered the U.S. market with its own therapeutically equivalent generic products to Qudexy XR. The entry of new generic products could adversely impact the sales or prescriptions for Trokendi XR or could result in an earlier than anticipated entry of generics to compete with Trokendi XR. The Company has entered into settlement agreements with third parties permitting the sale of a generic version of Trokendi XR on January 1, 2023, or earlier under certain circumstances. These circumstances include specific thresholds of volume declines for extended unit prescriptions as reported by IQVIA. We have the right to defend our products against third parties who may infringe or are infringing our patents.

Third parties in the future may receive approval to manufacture and market their own versions of extended release oxcarbazepine in the U.S. In addition, we are aware of companies who are marketing modified-release oxcarbazepine products outside of the U.S., such as Apydan, which was developed by Desitin Arzneimittel GmbH and which requires twice-daily administration. If companies with modified-release oxcarbazepine products outside of the U.S. pursue or obtain approval of their products within the U.S., such competing products may limit the potential success of Oxtellar XR in the U.S. Our business and growth prospects could be materially impaired.

Accordingly, if any third party is successful in obtaining approval to manufacture and market its own version of extended release oxcarbazepine or topiramate in the U.S., we may not be able to prospectively realize revenues from Oxtellar XR or Trokendi XR.

In addition, third parties have, and in the future may, receive approval to manufacture and market their own products, including generics containing apomorphine hydrochloride for the treatment of Parkinson's Disease in the U.S. For example, Acorda Therapeutics, Inc. launched Inbrija, an inhalable form of levodopa in 2019 and Sunovion Pharmaceuticals, Inc.'s (Sunovion, a subsidiary of Sumitomo Dainippon Pharma Co. Ltd) launched KYNMOBI, a sublingual film formulation of apomorphine hydrochloride, in 2020. The success of these products and the entry of new products could adversely impact the sales of prescriptions for APOKYN.

Third parties in the future may receive approval to manufacture and market their own versions of viloxazine hydrochloride. Accordingly, if any third party is successful in obtaining approval to manufacture and market its own version of viloxazine hydrochloride, such competing products may limit the potential success of Qelbree in the U.S. Our business and growth prospects could be materially impaired.

We are subject to uncertainty relating to payment or managed care reimbursement policies, which, if not favorable for our products or product candidates, could hinder or prevent our commercial success.

Our business is operating in an ever more challenging environment, with significant economic pressures exerted by federal and state governments, insurers, and private payors on the pricing of our products, affecting our ability to obtain and/or maintain satisfactory rates of reimbursement for our products. The U.S. federal and state governments and private payors are under intense pressure to control healthcare spending even more tightly than in the past. These pressures are further compounded by consolidation among distributors, retailers, private insurers, managed care organizations, and other private payors, resulting in an increase in their negotiating power, particularly with respect to our products. In addition, these pressures are intensified by intense, adverse publicity about pricing for pharmaceuticals. These prices are sometimes characterized as excessive, leading to government investigations and legal proceedings regarding pharmaceutical pricing practices.

Our ability, or our collaborators' ability, to successfully commercialize our products and product candidates, including SPN-812 for adult ADHD patients and SPN-830, will depend in part on the coverage and reimbursement levels set by governmental authorities, private health insurers, managed care organizations, and other third-party payors.

As a threshold for coverage and reimbursement, third-party payors require that drug products be approved for marketing by the FDA. Third-party payors are increasingly challenging the effectiveness of and prices charged for medical products and services. Government authorities and third-party payors have attempted to control costs, in some instances, by limiting coverage, by limiting the amount of reimbursement for particular medications, or by encouraging the use of lower-cost generic products.

We cannot be sure that reimbursement will be available for any of the products that we develop and, if reimbursement is available, the level of reimbursement. Moreover, that level of reimbursement may change over time as a result of requests from payors for higher levels of fees. Reduced or partial payment, or reduced reimbursement coverage, could make our products or product candidates, including Oxtellar XR, Trokendi XR, Qelbree and APOKYN, less attractive to patients and prescribing physicians. We also may be required to sell our products or product candidates at a significant discount, which would adversely affect our ability to realize an appropriate return on our investment in our products or product candidates or to maintain profitability.

We expect that private insurers and managed care organizations will consider the efficacy, cost effectiveness, and safety of our products or product candidates, including Oxtellar XR, Trokendi XR, Qelbree and APOKYN, in determining whether to approve reimbursement for such products or product candidates and to what extent they will provide reimbursement. Moreover, they will consider the efficacy and cost effectiveness of comparable or competitive products, including generic products, in making reimbursement decisions for our products. Because each third-party payor individually approves payment or reimbursement, obtaining these approvals can be a time consuming and expensive process, requiring us to provide scientific or clinical support for the use of each of our products or product candidates separately to each third-party payor. In some cases, it could take months or years before a particular private insurer or managed care organization reviews a particular product. Prior to that time, reimbursement may be negligible. We may ultimately be unsuccessful in obtaining coverage. In addition, our competitors may have more extensive existing business relationships with third-party payors that could adversely impact the coverage for our products.

Our business would be materially and adversely affected if we do not receive reimbursement for our products or product candidates from private insurers in a timely fashion or on a satisfactory basis. Our products and product candidates may not be considered cost-effective, and coverage and reimbursement may not be available or economically sufficient to allow us to sell our products or product candidates on a profitable basis.

Our business would also be adversely affected if private insurers, managed care organizations, the Medicare program, or other reimbursing bodies or payors limit the indications for which our products or product candidates will be reimbursed.

Moreover, increasing efforts by governmental and third-party payors in the U.S. to cap or reduce healthcare costs may cause such organizations to limit both coverage and the level of reimbursement for newly approved products. As a result, they may not cover or provide adequate reimbursement for our products or product candidates.

There has been increasing legislative and enforcement interest in the U.S. with respect to specialty drug pricing practices. Specifically, there have been several recent U.S. Congressional inquiries and proposed federal and state legislative initiatives designed to, among other things, bring more transparency to drug pricing, reduce the cost of prescription drugs under the Medicare program, to review the relationship between pricing and manufacturer patient programs, and to reform government reimbursement methodologies for drugs. We expect to experience pricing pressures in connection with the sale of any of our products and product candidates due to the trend toward managed healthcare, the increasing influence of health maintenance organizations, additional cost containment initiatives, and additional legislative changes.

In some foreign jurisdictions, particularly Canada and Europe, the pricing of prescription pharmaceuticals is subject to strict governmental control. In these countries, pricing negotiations with governmental authorities can take 6 to 12 months, or longer, after the receipt of regulatory approval and product launch. To obtain favorable reimbursement for the indications sought, or to obtain pricing approval in some countries, we may be required to conduct a clinical trial that compares the cost-effectiveness of our products or product candidates, if approved, to other available therapies. If reimbursement for our products or product candidates is unavailable in any country in which reimbursement is sought or is limited in scope or amount, or if pricing is set at unsatisfactory levels, our business could be materially harmed and unprofitable.

In addition, many managed care organizations negotiate the reimbursement price of products through the use of formularies, which establish reimbursement levels. Exclusion of a product from a formulary can lead to sharply reduced usage in the managed care organization's patient population because reimbursement is limited and/or negligible. If our products or product candidates are not included within an adequate number of managed care formularies or reimbursed at adequate levels, or if those policies increasingly favor generic products, our market share and gross margins could be negatively affected. This would have a material adverse effect on our overall business and financial condition.

We expect these challenges to continue and to potentially intensify in 2021 and following years, as political pressures mount, and healthcare payors, including government-controlled health authorities, insurance companies, and managed care organizations, step up initiatives to reduce the overall cost of healthcare, restrict access to higher-priced new medicines, increase the use of generic products and impose overall price cuts. Such pressures could have a material adverse impact on our business, financial condition, and results of operations, as well as on our reputation.

We depend on wholesalers, distributors, and specialty pharmacies for the retail distribution of our products. If we lose any of our significant wholesaler, distributor, or specialty pharmacy accounts, our business could be harmed.

The majority of the sales of Oxtellar XR, Trokendi XR, XADAGO, and MYOBLOC are made to wholesalers and distributors who, in turn, sell our products to pharmacies, hospitals, and other customers. The majority of sales of APOKYN are made to specialty pharmacies, including Accredo Health Group, Inc. and Caremark LLC. For the year ended December 31, 2020, three wholesale pharmaceutical distributors, AmerisourceBergen Drug Corporation, Cardinal Health, Inc., and McKesson Corporation, each individually accounted for more than 25% of our total revenue from sales of our commercial products and collectively accounted for more than 85% of our total revenue from sales of these products in 2020. For the year ended December 31, 2020, the two specialty pharmacies, Accredo Health Group, Inc. and Caremark LLC, accounted for more than 35% individually and more than 80% collectively of the total revenue from sales of APOKYN.

The loss of any of these wholesale pharmaceutical distributors or wholesale and specialty pharmacy accounts, or a material reduction in their purchases, could have a material adverse effect on our business, results of operations, financial condition, and prospects. In addition, these wholesale customers comprise a significant part of the distribution network for pharmaceutical products in the U.S. This distribution network has undergone and may continue to undergo significant

consolidation marked by mergers and acquisitions. As a result, a small number of large wholesale distributors control a significant share of the market.

Consolidation of drug wholesalers has increased. This may result in increased competition and pricing pressures on pharmaceutical products. We cannot assure you that we can manage these pricing pressures or that wholesaler purchases will not fluctuate unexpectedly from period to period.

Sales of our products can be greatly affected by the inventory levels that our respective wholesalers, specialty pharmacies, and distributors carry. We monitor wholesalers, specialty pharmacies, and distributor inventory of our products using a combination of methods. Pursuant to distribution service agreements with our three largest wholesale customers, we receive product inventory reports. For other wholesalers where we do not receive inventory reports, our estimates of wholesaler inventories may differ significantly from actual inventory levels. Significant differences between actual and estimated inventory levels may result in excessive stocking, resulting in our holding substantial quantities of unsold inventory, or, alternatively, inadequate supplies of product in the distribution channels. This could result in our inability to support sales at the retail level. These changes may cause our revenues to fluctuate significantly from quarter to quarter and, in some cases, may cause our operating results for a particular quarter to be below our expectations, the expectations of securities analysts, and/or the expectations of investors.

At times, wholesalers and distributors may increase inventory levels in response to anticipated price increases, resulting in both greater wholesaler purchases prior to the anticipated price increase and in reduced wholesaler purchases in later quarters. Accordingly, this may cause substantial fluctuations in our results of operations from period to period. If our financial results are below expectations for a particular period, the market price of our common stock may drop significantly.

We may not be able to effectively market and sell our product candidates, if approved, in the U.S.

We plan on building or expanding our sales and marketing capabilities in the U.S. to commercialize our product candidates if approved. This will require investing significant amounts of financial and management resources. If we are unable to establish and maintain adequate sales and marketing capabilities for our product candidates or do so in a timely manner, we may not be able to generate sufficient product revenues from our product candidates to be profitable. The cost of establishing and maintaining such marketing and sales capabilities may not be economically justifiable in light of the revenues generated by any of our product candidates. With the approval of Qelbree, our sales representatives who currently support Trokendi XR and Oxtellar XR will now devote their full efforts to the launch of Qelbree. In turn, these sales representatives will be replaced with a smaller contract field force, which could have a detrimental impact on the future sales performance of Trokendi XR and Oxtellar XR.

Final marketing approval of any of our product candidates or approval of additional indications for existing products by the FDA or other regulatory authorities may be delayed, limited, or denied, any of which would adversely affect our ability to generate operating revenues.

We are dependent on obtaining regulatory approval of our product candidates and approval for additional indications for existing products. Our business depends on successful clinical development; i.e., successful completion of clinical trials and completion of requisite manufacturing information. We are not permitted to market any of our product candidates in the U.S. until we receive approval of an NDA from the FDA or market in any foreign jurisdiction until we receive approval from the requisite authority. Satisfaction of regulatory requirements typically takes many years, is dependent upon the type, complexity, and novelty of the product, and requires the expenditure of substantial resources. We cannot predict whether or when we will obtain regulatory approval to commercialize our product candidates. We cannot, therefore, predict the timing of any future revenues from these product candidates.

The FDA has substantial discretion in the drug approval process, including the ability to delay, limit or deny approval of a product candidate or deny a prior approval supplement[(1)] for many reasons. For example, the FDA

- Could reject or delay the marketing application for an NCE;
- Could determine that we cannot rely on Section 505(b)(2) for any approval of our product candidates;
- Could determine that the information provided by us was inadequate, contained clinical deficiencies, or otherwise failed to demonstrate the safety and effectiveness of any of our product candidates for a specific indication;
- May not find the data from bioequivalence studies and/or clinical trials sufficient to support the submission of an NDA or to obtain marketing approval in the U.S.;
- May find the clinical and other benefits of our product candidates do not outweigh their safety risks;

- May disagree with our trial design or our interpretation of data from preclinical studies, bioequivalence studies, and/or clinical trials, or may change the requirements for approval even after they have reviewed and commented on the design for our trials; the outcome and measurement scale used in the trials; or the clinical protocols whether with or without a special protocol assessment process;
- May determine that we have identified the wrong reference listed drug or drugs, or that approval of our Section 505(b)(2) application of our product candidate is blocked by patent or non-patent exclusivity of the reference listed drug or drugs;
- May identify deficiencies in the manufacturing processes or facilities of third-party manufacturers with which we enter into agreements for the supply of raw materials, including the active pharmaceutical ingredient (API) or formulated product used in our product candidates, wherein those deficiencies may result in an interruption in the ability to supply product;
- May approve our product candidates for fewer or more limited indications than we request, or may grant approval contingent on the performance of costly post-approval clinical trials;
- May change their approval policies or adopt new regulations;
- May not approve the labeling claims that we believe are necessary or desirable for the successful commercialization of our product candidates or may approve them with warnings and precautions that could limit the acceptance of our product candidates and their commercial success; or
- May not approve the addition of new indications to the label of our existing products.

(1) Changes that have a substantial potential to have an adverse effect on product quality, identity strength, purity, or potency (i.e., major changes) require submission of a "prior approval supplement" and approval by the FDA prior to distribution of the drug product made using the change.

Notwithstanding the approval of many products by the FDA pursuant to Sections 505(b)(1) and 505(b)(2), over the last few years, some pharmaceutical companies and others have objected to the FDA's interpretation of Section 505(b)(2). If the FDA changes its interpretation of Section 505(b)(2), or if the FDA's interpretation is successfully challenged in court, this could delay or even prevent the FDA from approving any Section 505(b)(2) application that we submit. Any failure to obtain regulatory approval of our product candidates would eliminate our ability to generate revenues for that candidate. Any failure to obtain such approval for all of the indications and labeling claims we deem desirable could reduce our potential revenues.

The process of obtaining regulatory clearances or approvals to market a medical device can be costly and time consuming. We may not be able to obtain these clearances or approvals on a timely basis, if at all. The FDA exercises significant discretion over the regulation of combination products, including drug and device components in a combination product.

The FDA could in the future require additional regulation under the medical device provisions of the FDCA. We must comply with the QSR, which sets forth the FDA’s cGMP, requirements for medical devices, and other applicable government regulations and corresponding foreign standards for drug cGMPs. If we fail to comply with these regulations, it could have a material adverse effect on our business and financial condition.

Following FDA approval of Qelbree in April 2021 for the treatment of ADHD in pediatric patients, additional indications may be submitted using the Section 505(b)(2) regulatory pathway. We plan to submit a filing under Section 505(b)(2) to the FDA for Qelbree in adults in the third quarter of 2021. The FDA may not approve our filing under Section 505(b)(2) for this for other indication(s), and therefore we would be required to submit a full NDA filing. In such a case, the time and financial resources required to obtain approval could also significantly increase.

In addition, we intend to complete the development of an infusion-pump delivery system containing apomorphine (SPN-830) and have submitted the NDA for SPN-830 to the FDA in September 2020. We received a refusal to file letter from the FDA and met with the FDA in March 2021 to clarify the steps required for the resubmission of the NDA for SPN-830. We are investing significant amounts of resources into the continued development of SPN-830. If we are unable to gain FDA approval for SPN-830 or are unable to successfully commercialize it, we may not be able to generate revenue to cover the cost of invested company resources invested in this product candidate. In addition, as discussed further below, failure to gain FDA approval could have an adverse effect on SPN-830’s commercial potential or could require additional costly studies.

If we fail to produce our products and product candidates in the volumes that we require on a timely basis or fail to comply with stringent regulations applicable to pharmaceutical drug manufacturers, we may face delays in the development and commercialization of our products and product candidates or be required to withdraw our products from the market.

We do not currently own or operate manufacturing facilities for the commercial production of any of our products or our product candidates, nor do we have plans to develop our own manufacturing operations at a commercial scale in the foreseeable

future. We currently depend on third-party clinical manufacturing organizations (CMOs), who offer a comprehensive range of contract manufacturing and packaging services, in various countries for the supply of API for our products and product candidates, including drug substances for our preclinical research and clinical trials. For Trokendi XR, Oxtellar XR, Qelbree, MYOBLOC, XADAGO, and APOKYN, we currently rely on single source suppliers for raw materials, including API, as well as single source suppliers to produce and package final dosage forms.

There is a risk that supplies of our products or product candidates may be significantly delayed by or may become unavailable as a result of manufacturing, equipment, process, or business-related issues affecting our suppliers. Any future curtailment in the availability of raw materials or finished goods could result in production or other delays, with consequent adverse business effects. In addition, because regulatory authorities must generally approve raw material sources for pharmaceutical products, changes in raw material suppliers may result in production delays or higher raw material costs. We may also encounter similar risks with the other products and product candidates where raw materials or finished goods are purchased from suppliers outside the U.S., such as the case for example for SPN-830 where the supplier for the infusion pump device is based in Italy and for APOKYN, XADAGO and MYOBLOC where the API manufacturer and finished goods supplier, respectively, are in Europe.

The manufacture of pharmaceutical products requires significant expertise and capital investment, including the development of advanced manufacturing techniques and process controls. Pharmaceutical companies often encounter difficulties in manufacturing, particularly in scaling up the production of their products. These problems can adversely affect production costs and yields, quality control, the stability of the product and quality assurance testing, as well as compliance with federal, state, and foreign regulations. If we are unable to demonstrate stability in accordance with commercial requirements, or if our manufacturers were to encounter difficulties or otherwise fail to comply with their obligations to us, our ability to obtain or maintain FDA approval and to market our products and product candidates, respectively, would be jeopardized. In addition, any delay or interruption in producing clinical trial supplies could delay or prohibit the completion of our clinical trials, increase the costs associated with conducting our clinical trials and, depending upon the period of delay, require us to commence new trials at the significant additional expense or to terminate a trial.

Manufacturers of pharmaceutical products need to comply with cGMP requirements and other requirements enforced by the FDA, including electronic tracking and submission. These requirements include quality control, quality assurance, and the maintenance of records and documentation. Manufacturers of our products and product candidates may be unable to comply with these cGMP requirements and other FDA and similar foreign regulatory requirements. Failure to comply with these requirements may result in fines and civil penalties, suspension of production, suspension or delay in product approval, product seizure or recall, or withdrawal of product approval. If the safety of any of our products or product candidates is compromised due to failure to adhere to applicable laws or for other reasons, we may not be able to obtain regulatory approval for such product candidates or to successfully commercialize such products. We may be held liable for any injuries sustained as a result. Any of these factors could cause a delay in clinical development, regulatory submissions, approvals, or commercialization of our product candidates, entail higher costs, or result in our being unable to effectively commercialize our product candidates. Furthermore, if we fail to obtain the required commercial quantities on a timely basis from our suppliers and at commercially reasonable prices, we may be unable to meet the demand for our approved products or may not be able to sell our products profitably.

Our products and our product candidates may be subject to restrictions or withdrawal from the market. We may be subject to penalties if we fail to comply with regulatory requirements.

Even though U.S. regulatory approval has been obtained for our products, the FDA may impose significant restrictions on their indicated uses, or may impose restrictions on marketing, or may impose requirements for costly post-approval studies. For example, both Trokendi XR and Oxtellar XR were approved on the basis of post-approval commitments, including the development of additional age-appropriate formulations of the drugs and the conduct of post-approval clinical studies in accordance with timelines laid out in the approval letters. The post-approval commitments required the creation of new drug product formulations, which we have not been able to accomplish. Despite significant efforts, in certain cases, we have been unable to meet the FDA's timelines. Refer to Part I, Item 1, *Business*, *Post-approval Regulatory Requirements* of the Annual Report on Form 10-K filed with the SEC on March 8, 2021, for more information. To date, the only consequence of our failure to meet our PREA commitment deadlines has been a notation on FDA websites, making the status of PREA publicly known.

We are also required to conduct an additional post-approval study with respect to Trokendi XR for the treatment of prophylaxis of migraine. If we do not meet our post-marketing commitments and are unable to show good cause for our inability to adhere to the timetables laid out in the approval letters, the FDA could take enforcement action against us, including withdrawal of approval. While we believe that we can show good cause for our inability to meet the timelines for our post-

approval study requirements, the FDA may disagree. Refer to Part I, Item 1, Business, Post-approval Regulatory Requirements, in the Annual Report on Form 10-K filed with the SEC on March 8, 2021, for more information.

We have post-marketing clinical and manufacturing studies and data commitments for MYOBLOC. We are required to conduct a post-marketing study of MYOBLOC for treatment of sialorrhea and spasticity.

We received approval for Qelbree from the FDA based on certain post-marketing commitments, including the requirement to conduct a clinical efficacy and six month open label safety extension study for ADHD in pediatric patients 4 to 5 years of age, a lactation study and a descriptive study related to the use of Qelbree during pregnancy, and to assess the risks of adverse events and potential complications.

Our products, product candidates, and our collaborators' approved products are subject to ongoing FDA requirements governing the labeling, packaging, storage, advertising, promotion, recordkeeping, and submission of safety and other information. In addition, manufacturers of drug products and their facilities are subject to continual review and periodic inspections by the FDA and other regulatory authorities for compliance with current good manufacturing practice (cGMP) regulations. If we, our collaborators, or a regulatory authority discovers previously unknown problems with a product, including side effects that are unanticipated in severity or frequency, or problems with the facility where the product is manufactured, a regulatory authority may impose restrictions on that product or on the manufacturer, including requiring withdrawal of the product from the market or suspension of manufacturing.

If we or our collaborators, or our products, product candidates, or our collaborators' products, or the manufacturing facilities for our products, product candidates or our collaborators' products fail to comply with applicable regulatory requirements, a regulatory authority may:

- Issue warning letters or untitled letters;
- Impose civil or criminal penalties;
- Suspend regulatory approval;
- Suspend any ongoing bioequivalence and/or clinical trials;
- Refuse to approve pending applications or supplements to applications filed by us;
- Impose restrictions on operations, including costly new manufacturing requirements, or suspend production for a sustained period of time; or
- Seize or detain products or require us to initiate a product recall.

In addition, our product labeling, advertising, and promotion of our approved products are subject to regulatory requirements and continuing regulatory review. The FDA strictly regulates the promotional claims that may be made about prescription products. In particular, a product may not be promoted for uses that are not approved by the FDA, as reflected in the product's approved labeling. Notwithstanding, physicians may nevertheless prescribe products to their patients in a manner that is inconsistent with the approved label, which is known as "off label use". The FDA and other authorities actively enforce the laws and regulations prohibiting the promotion of off-label uses, and a company that is found to have promoted off-label use may be subject to significant sanctions. The federal government has levied large civil and criminal fines against companies for alleged improper promotion and has enjoined companies from engaging in off-label promotion. If we are found to have promoted off-label use, we may be enjoined from such off-label promotion and become subject to significant liability. This could have an adverse effect on our reputation, business, and revenues.

Further, the FDA's policies may prospectively change. Additional government regulations may be enacted that could affect our products or prevent, limit or delay regulatory approval of our product candidates. If we are slow or unable to adapt to changes in existing requirements or to adopt new requirements or policies, or if we are not able to maintain regulatory compliance, we may lose any marketing approval that we have obtained, adversely affecting our business, prospects, and ability to achieve or sustain profitability.

Our failure to successfully develop and market our product candidates would impair our ability to grow.

As part of our growth strategy, we intend to develop and market additional product candidates. We may spend substantial resources and several years completing the development of a particular current or future internal product candidate, during which process we can experience failure at any stage, and for many reasons. The product candidates to which we allocate our resources, even if approved, may not be commercially successful. In addition, because our internal research capabilities are limited, we may be dependent upon pharmaceutical companies, academic scientists, and other researchers to sell or license products or technologies to us. The success of this strategy depends partly upon our ability to identify, select, discover and acquire

promising pharmaceutical product candidates and approved products, and to manage our spending as expenses related to undertaking clinical trials can be substantial.

An existing team of experienced Supernus sales representatives who supported Trokendi XR and Oxtellar XR will now devote their full focus to the launch of Qelbree. By removing these resources from the field promotion of Trokendi XR and Oxtellar XR and replacing them with a contract field force of smaller size there could be a detrimental impact on the performance of Trokendi XR and Oxtellar XR.

In September 2020, we submitted the NDA for SPN-830 to the FDA. In November 2020, we received a Refusal to File (RTF) letter from the FDA regarding the NDA in which the FDA determined that the NDA was not sufficiently complete to permit a substantive review. In the letter, the FDA requested certain documents and reports to be submitted in support of the NDA. In March 2021, we met with the FDA to discuss the path forward for resubmission of the SPN-830 NDA. The FDA provided additional clarity related to the contents of the RTF letter and the requirements for resubmission and we are working on responding to the FDA's requirements to refile the NDA for SPN-830.

We rely on and will continue to rely on outsourcing arrangements for certain of our critical activities, including clinical research of our product candidates, manufacture of our compounds and product candidates beyond Phase II clinical trials, and the manufacture of our commercial products.

We rely on outsourcing arrangements for some of our critical activities, including manufacturing, preclinical and clinical research, data collection and analysis, and electronic submission of regulatory filings. We may have limited control over third parties, and we cannot guarantee that they will perform their obligations in an effective, competent, and timely manner. Our reliance on third parties, including third-party Clinical Research Organizations (CROs) and CMOs, entails risks including, but not limited to:

- Non-compliance by third parties with regulatory and quality control standards;
- Sanctions imposed by regulatory authorities if compounds supplied or manufactured by a third party supplier or manufacturer fail to comply with applicable regulatory standards;
- Possible breach of the agreements by the CROs or CMOs because of factors beyond our control, insolvency or other financial difficulties of any of these third parties; labor unrest; natural disasters; or other factors adversely affecting their ability to conduct their business; and
- Termination or non-renewal of an agreement by a third party at a time that is inconvenient for us and for reasons not entirely under our control.

We do not own or operate manufacturing facilities for the production of any of our products or product candidates beyond Phase II clinical trials, nor do we have plans in the foreseeable future to develop our own manufacturing operations to support Phase III clinical trials or support commercial production. We currently depend on third-party CMOs for all of our required raw materials and drug substances for our preclinical research and clinical trials. For our commercial products, including Oxtellar XR, Trokendi XR, Qelbree and APOKYN, we currently rely on single source suppliers for raw materials, including API, and rely on third-party manufacturers for the production and packaging of final commercial products. In addition, we rely on a single source supplier of API for SPN-812 and API and infusion delivery pump system for SPN-830. If any of these vendors are unable to perform their obligations to us, including due to violations of the FDA's requirements, our ability to meet regulatory requirements, projected timelines, and necessary quality standards for the development or commercialization of products would be adversely affected. Further, if we were required to change vendors, it could result in substantial delays in our regulatory approval efforts, significantly increase our costs, and delay generation of revenues. Accordingly, the loss of any of our current or future third-party manufacturers or suppliers could have a material adverse effect on our business, results of operations, financial condition, and business prospects.

Our products and product candidates may cause undesirable side effects or have other characteristics that limit their commercial potential, delay, or prevent their regulatory approval.

Undesirable side effects caused by any of our product candidates could cause us or regulatory authorities to interrupt, delay or halt development. This could result in the denial of regulatory approval by the FDA or other regulatory authorities and result in potential product liability claims. Undesirable side effects caused by any of our products could cause regulatory authorities to temporarily or permanently halt product sales, which could have a material adverse effect on our business.

Immediate release oxcarbazepine and topiramate products, which use the same APIs as Oxtellar XR and Trokendi XR, are known to cause various side effects, including but not limited to: dizziness; paresthesia; headaches, and cognitive deficiencies

such as memory loss and speech impediment; digestive problems; somnolence; double vision; gingival enlargement; nausea; weight gain; oral malformation birth defects; visual field defects; infants small for gestational age; and fatigue. The use of Oxtellar XR and Trokendi XR may cause similar side effects as compared to their reference products or may cause additional or different side effects.

Apomorphine hydrochloride products, which use the same API as APOKYN, are known to cause various side effects, including but not limited to: yawning; sleepiness; dyskinesias; dizziness; runny nose; nausea and/or vomiting; hallucinations/confusion; and swelling of hands, arms, legs, and feet, somnolence. The use of APOKYN may cause similar side effects compared to these reference products, or may cause additional or different side effects.

Safinamide products, which use the same API as XADAGO, are known to cause various side effects, including but not limited to: dyskinesia, nausea, falls, insomnia. The use of XADAGO may cause similar side effects compared to these reference products or may cause additional or different side effects.

Botulinum toxin products, which use the same API as MYOBLOC, are known to cause various side effects due to the spread of botulinum toxins from the area of injections. These may include: asthenia; generalized muscle weakness; diplopia; blurred vision; ptosis; dysphagia; dysphonia; dysarthria; urinary incontinence; and breathing difficulties. These symptoms have been reported hours to weeks after injection. Swallowing and breathing difficulties can be life threatening. There have been reports of death. The use of MYOBLOC may cause similar side effects compared to its reference products or may cause additional or different side effects.

Qelbree may increase suicidal thoughts and behavior. Patients treated with Qelbree had higher rates of insomnia and irritability. These symptoms, along with other symptoms such as depressed mood, anxiety, agitation, akathisia, mania, hypomania, panic attacks, impulsive behavior, and aggression may represent precursors to emerging suicidal ideation or behavior. Patients treated with Qelbree should be observed for the emergence of these symptoms, especially within the first few months of treatment or when the dose is changed. Qelbree is not indicated in patients that also take monoamine oxidase inhibitors, or MAOIs, or those patients who take medicines metabolized by CYP1A2, such as theophylline.

Products that were or are currently on the market and use the same API as our product candidates, including Qelbree and SPN-817 (dietary supplements), were known to cause various side effects, including but not limited to: drowsiness; depression; hyperactivity; euphoria; extrapyramidal reactions; nausea; headache; diarrhea; vomiting; sleep difficulties; agitation; exacerbation of anxiety; sleepiness; mouth dryness; tachycardia; constipation and urinary difficulties. The labels for those products also included precautions and warnings about, among other things: convulsive events in patients that are treated for or have a prior history of epilepsy; inhibition of hepatic metabolism of certain drugs; risk of suicide before antidepressant clinical improvement; need for monitoring patients with cardiac, hepatic or renal insufficiency; or patients at risk for angle-closure glaucoma. The use of Qelbree and SPN-817 may cause similar side effects as compared to these reference products or may cause additional or different side effects.

If our products cause side effects, or if any of our product candidates receive marketing approval, and we or others later identify undesirable side effects caused by our products or product candidates, a number of potentially significant negative consequences could result, including:

- Regulatory authorities may withdraw approval of the product candidate or otherwise require us to take the approved product off the market;
- Regulatory authorities may require additional warnings or a narrowing of the indication on the product label;
- We may be required to create a medication guide outlining the proper use of the medication and the risks of side effects for distribution to patients;
- We may be required to modify the product in some way;
- Regulatory authorities may require us to conduct additional clinical trials, or costly post-marketing testing and surveillance, to monitor the safety or efficacy of the product;
- Sales of approved products may decrease significantly;
- We could be sued and be held liable for harm caused to patients; or
- Our reputation may suffer.

Any of these events could prevent us from achieving or maintaining the commercial success of our products and product candidates and could substantially increase commercialization costs.

We depend on collaborators to work with us to develop, manufacture and commercialize their and our products and product candidates.

We have a license agreement with United Therapeutics Corporation to use one of our proprietary technologies in an oral formulation of treprostinil diethanolamine, or treprostinil, for the treatment of pulmonary arterial hypertension and for other indications. United Therapeutics Corporation launched Orenitram (treprostinil) in 2014, which triggered payment of a milestone payment to us of $2.0 million. In the third quarter of 2014, we received a cash payment of $30.0 million from HC Royalty for the purchase of certain of our rights under our license agreement with United Therapeutics Corporation related to the commercialization of Orenitram. Ownership of the royalty rights will return to us if/when a certain cumulative threshold payment to HC Royalty is reached.

We are entitled to receive milestones and royalties for the use of this formulation in indications other than arterial hypertension. If we materially breach any of our obligations under the license agreement, we could lose the right to receive any future royalty payments thereunder, which could be financially significant to us.

Under the Britannia Supply Agreement, we have been granted certain intellectual property and product rights in relation to APOKYN, including the right to use and market APOKYN in the United States. Additionally, the Britannia Supply Agreement grants Britannia certain intellectual property and product rights in relation to APOKYN, including the right to use and market APOKYN in the rest of the world, excluding the United States. Per the Agreement, Britannia has an obligation to supply us with APOKYN for our marketing and sale of the product.

Britannia may terminate its obligation to supply APOKYN for cause, or at any time, by giving at least twenty-four months' written notice. The Britannia Supply Agreement does not provide technology transfer assistance from Britannia to any new suppliers we might engage following termination. In addition, the Britannia Supply Agreement is silent in providing us with an explicit license grant to any intellectual property, or to access know-how necessary or useful for manufacturing APOKYN. If we materially breach the Britannia Supply Agreement, or Britannia chooses to terminate the Britannia Supply Agreement for convenience, we could lose the right and resources necessary for the manufacture of APOKYN or could incur significant costs implementing technology transfer assistance.

For Qelbree, we are negotiating to enter into agreements with leading CMOs including Bachem for the production of API and Catalent Pharma Solutions, for the manufacture of the commercial products. These CMOs offer a comprehensive range of contract manufacturing services.

Refer to Part I, Item 1, *Business*, *Collaborations and Licensing Agreements*, of our Annual Report on Form 10-K for discussion on the different collaborations and licensing arrangements.

We intend to rely on third-party collaborators to market and commercialize our products and product candidates outside the U.S. We utilize strategic partners outside the U.S., where appropriate, to assist in the commercialization of our products and product candidates. We currently possess limited resources and may not be successful in establishing collaborations or licensing arrangements on acceptable terms, if at all. We also face competition in our search for collaborators and licensing partners. By entering into strategic collaborations or similar arrangements, we rely on third parties to financially support their local operations, including support required for development, commercialization, sales, marketing, and regulatory activities, as well as expertise in each of those subject areas.

Our future collaboration agreements may limit the areas of research and development that we may pursue, either alone or in collaboration with third parties. Much of the potential revenues from these future collaborations may consist of contingent payments, such as payments for achieving certain development milestones and royalties payable on product sales. The milestones and royalty revenues that we may receive under these collaborations will depend upon our collaborators' ability to successfully develop, introduce, market and sell new products. Future collaboration partners may fail to develop or effectively commercialize products, product candidates, or technologies because they, among other things, may:

- Change the focus of their development and commercialization efforts, or may have insufficient resources to effectively develop our product candidates;
- Pharmaceutical and biotechnology companies historically have re-evaluated their development and commercialization priorities following mergers and consolidations, which have been common in recent years. The ability of some of our product candidates to reach their potential could be limited if our future collaborators fail to apply sufficient development or commercialization efforts related to those product candidates;

- Decide not to devote the necessary resources due to internal constraints, such as limited personnel with the requisite scientific expertise, limited cash resources, or in the belief that other internal drug development programs may have a higher likelihood of obtaining marketing approval, or may potentially generate a greater return on investment;
- Develop and commercialize, either alone or with others, drugs that are similar to or competitive with the product candidates that are the subject of their collaboration with us;
- Not have necessary and sufficient resources to develop the product candidate through clinical development, marketing approval, and commercialization;
- Fail to comply with applicable regulatory requirements;
- Are unable to obtain the necessary marketing approvals; or
- Breach or terminate their arrangement with us.

If collaboration partners fail to develop or fail to effectively commercialize our products for any of these reasons, we may not be able to replace the collaboration partner with another partner to develop and commercialize the product under the terms of the collaboration, if at all. Further, even if we are able to replace the collaboration partner, we may not be able to do so on commercially favorable terms. As a result, the development and commercialization of the affected product or product candidate could be delayed, impaired, or terminated because we may not have sufficient financial resources or capabilities to continue the development and commercialization of the product candidate on our own. Failure of our third-party collaborators to successfully market and commercialize our products or product candidates within and outside the U.S. could materially diminish our revenues and harm our results of operations.

We could be involved in lawsuits to protect or enforce our patents, which could be expensive, time consuming, distracting, and ultimately unsuccessful.

Competitors may infringe our patents. To counter infringement or unauthorized use, we may be required to file infringement claims, which can be expensive and time consuming. For example, we are involved in several matters related to Paragraph IV Certification Notice Letters that we received in connection with our products and our collaborators' products. In connection with an ANDA, a Paragraph IV Certification Notice Letter notifies the FDA that one or more patents listed in the FDA's Orange Book is alleged to be invalid, unenforceable, or will not be infringed by the competitive ANDA product.

For example, we received a Paragraph IV Notice Letter from generic drug makers Apotex Inc. and Apotex Corp. (collectively “Apotex”) in May 2020, directed to nine of its Oxtellar XR Orange Book patents, which generally cover once-a-day oxcarbazepine formulations and methods of treating seizures using those formulations. The FDA Orange Book lists all nine of our Oxtellar XR patents as expiring on April 13, 2027. In June 2020, we filed a lawsuit against Apotex alleging infringement of all nine patents. In September 2020, Apotex answered the Complaint and denied the substantive allegations of the Complaint. Apotex also asserted Counterclaims seeking declaratory judgments of non-infringement for the nine Oxtellar XR Orange Book patents. Our responses to Apotex’s counterclaims were filed in October 2020.

In April 2021, we received a second Paragraph IV Notice Letter from generic drug maker RiconPharma, LLC (“Ricon”) dated April 20, 2021 directed to nine of its Oxtellar XR Orange Book patents. The Company is currently reviewing the details of Ricon’s Notice Letter and intends to vigorously enforce its intellectual property rights relating to Oxtellar XR.

We also received a Paragraph IV Notice Letter from generic drug maker Ajanta Pharma Limited on February 11, 2021, directed to ten of its Trokendi XR Orange Book patents, which generally cover once-a-day topiramate formulations and methods of treating seizures using those formulations. The FDA Orange Book lists one patent with an expiration date of April 4, 2028 and nine patents with an expiration date of November 16, 2027. The Company is currently reviewing Ajanta’s Notice Letter and intends to vigorously enforce its intellectual property rights relating to Trokendi XR.

For more information, refer to Part II, Item 1—*Legal Proceedings* contained in this Quarterly Report on Form 10-Q.

In any infringement proceeding, a court may decide that a patent of ours is not valid or enforceable, or the court may refuse to stop the other party from using the technology at issue on the grounds that our patents do not cover the technology in question. An adverse result in any litigation or defense proceedings could put one or more of our patents at risk of being invalidated or interpreted narrowly and could put our patent application at risk of not issuing.

Interference proceedings brought by the USPTO may be necessary to determine the priority of inventions with respect to our patents and patent applications or the patents of our collaborators. An unfavorable outcome could require us to cease using the technology or to attempt to license rights to it from the prevailing party. Our business could be harmed if a prevailing party does

not offer us a license on terms that are acceptable to us or offer terms at all. Litigation or interference proceedings may fail. Even if successful, litigation may result in substantial costs and distract our management and other employees. We may not be able to prevent, alone or with our collaborators, misappropriation of our proprietary rights, particularly in countries where the laws may not protect those rights as fully as they are protected in the U.S.

Furthermore, because of the substantial amount of discovery required in connection with intellectual property litigation, there is a risk that some of our confidential information could be compromised by disclosure during this type of litigation.

In addition, there could be public announcements of the results of hearings, motions, or other interim proceedings or developments. If securities analysts or investors perceive these results to be negative or perceive that the presence or continuation of these cases creates a level of uncertainty regarding our ability to increase or sustain product sales, it could have a substantial adverse effect on the price of our common stock.

There can be no assurance that our product candidates will not be subject to the same risks.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

(a) Sales of Unregistered Securities.

During the three months ended March 31, 2021, the Company granted options to employees to purchase an aggregate of 789,275 shares of common stock at a weighted-average exercise price of $29.61 per share. Once vested, the options are exercisable for a period of ten years from the grant date. The Company granted 21,110 restricted stock units to the board of directors at a weighted-average grant date fair value of $29.61 per share. The restricted stock units vest one year from the grant date. In addition, the Company granted 100,000 performance stock units to its employees at a weighted-average grant date fair value of $29.41 per share. These issuances are exempt from registration in reliance on Section 4(a)(2) of the Securities Act as transactions not involving a public offering.

Item 3. Defaults Upon Senior Securities

None

Item 4. Mine Safety Disclosures

None

Item 5. Other Information

None

Item 6. Exhibits

The following exhibits are filed or furnished as part of this Quarterly Report on Form 10-Q:

31.1	Certification of Chief Executive Officer pursuant to Rule 13a-14(a).
31.2	Certification of Chief Financial Officer pursuant to Rule 13a-14(a).
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	The following financial information from the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2021, formatted in Inline XBRL: (i) Cover Page, (ii) Condensed Consolidated Statements of Earnings, (iii) Condensed Consolidated Statements of Comprehensive Earnings, (iv) Condensed Consolidated Balance Sheets, (v) Condensed Consolidated Statements of Changes in Stockholders' Equity, (vi) Condensed Consolidated Statements of Cash Flows, and (vii) the Notes to Condensed Consolidated Financial Statements, tagged in summary and detail.
104	The cover page of the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2021, formatted in Inline XBRL (included with the Exhibit 101 attachments).

SIGNATURES

Pursuant to the requirements 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.

SUPERNUS PHARMACEUTICALS, INC.

DATED: May 7, 2021

By: /s/ Jack A. Khattar
Jack A. Khattar
President and Chief Executive Officer

DATED: May 7, 2021

By: /s/ James P. Kelly
James P. Kelly
Executive Vice President and Chief Financial Officer

EXHIBIT 31.1

CERTIFICATION

I, Jack A. Khattar, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Supernus Pharmaceuticals, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 7, 2021

By: /s/ Jack A. Khattar
Jack A. Khattar
President and Chief Executive Officer

EXHIBIT 31.2

CERTIFICATION

I, James P. Kelly, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Supernus Pharmaceuticals, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   (a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 7, 2021

By: /s/ James P. Kelly
James P. Kelly
Executive Vice President and Chief Financial Officer

EXHIBIT 32.1

SUPERNUS PHARMACEUTICALS, INC.

CERTIFICATION PURSUANT TO

18 U.S.C. sec. 1350,

AS ADOPTED PURSUANT TO

SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of Supernus Pharmaceuticals, Inc. (the "Company") on Form 10-Q for the period ended March 31, 2021 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Jack A. Khattar, President and Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. sec. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: May 7, 2021

By: /s/ Jack A. Khattar
Jack A. Khattar
President and Chief Executive Officer

EXHIBIT 32.2

SUPERNUS PHARMACEUTICALS, INC.

CERTIFICATION PURSUANT TO

18 U.S.C. sec. 1350,

AS ADOPTED PURSUANT TO

SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Quarterly Report of Supernus Pharmaceuticals, Inc. (the "Company") on Form 10-Q for the period ended March 31, 2021 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, James P. Kelly, Executive Vice President and Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. sec. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: May 7, 2021

By: /s/ James P. Kelly
James P. Kelly
Executive Vice President and Chief Financial Officer