

Tree.com, Inc.
Form 10-K
February 27, 2009

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**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 10-K

(Mark One)

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

For the Fiscal Year Ended December 31, 2008

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 No. 001-34063

TREE.COM, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

26-2414818
(I.R.S. Employer Identification No.)

11115 Rushmore Drive, Charlotte, North Carolina 28277
(Address of Registrant's principal executive offices)

(704) 541-5351
(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:
Common Stock, \$0.01 Par Value Registered on the NASDAQ Exchange

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Securities registered pursuant to Section 12(g) of the Act:

None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes No

Indicated by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes No

Indicate by 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 if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§ 229.405) is not contained herein, and will not be contained, to the best of Registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

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

Large accelerated filer Accelerated filer Non-accelerated filer Smaller reporting company
(Do not check if a smaller reporting company)

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

As of June 30, 2008, there was no established public market for the registrant's common stock. Shares began trading August 21, 2008 after completion of the Spin-Off from IAC/ InterActiveCorp ("IAC").

As of February 24, 2009, there were 9,980,388 shares of the Registrant's common stock, par value \$.01 per share, outstanding.

Documents Incorporated By Reference:

Portions of the Registrant's proxy statement for its 2009 Annual Meeting of Stockholders are incorporated by reference into Part III herein.

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PART I

Item 1. Business

History and Overview

Tree.com is the parent of LendingTree, LLC and is the indirect parent of several companies owned by LendingTree, LLC. LendingTree, LLC (formerly, LendingTree, Inc.) was incorporated in the state of Delaware in June 1996 and commenced nationwide operations in July 1998. LendingTree, Inc. was acquired by IAC/InterActiveCorp ("IAC") in 2003 and converted to a Delaware limited liability company (LendingTree, LLC) in December 2004. On August 20, 2008, Tree.com, Inc. (along with its subsidiary, LendingTree, LLC) was spun off from IAC into a separate publicly traded company. We refer to the separation transaction as the "spin-off." Tree.com was originally incorporated as a Delaware corporation in April 2008, in anticipation of the spin-off.

Through its various subsidiaries, Tree.com currently operates a lending business (the "Lending Business") and a real estate business (the "Real Estate Business").

The Lending Business consists of online networks and call centers, principally LendingTree.com and GetSmart.com, which match consumers with lenders and loan brokers. In addition, the Lending Business originates, processes, approves and funds various types of residential real estate loans under two brand names, LendingTree Loans® and HomeLoanCenter.com.

The Real Estate Business consists primarily of an internet-enabled national residential real estate brokerage that currently operates offices in 20 markets under the brand name "RealEstate.com, REALTORS®." Outside of these 20 markets, RealEstate.com maintains relationships with a network of third-party brokerages that receive leads from RealEstate.com and pay a referral fee on closed transactions. The Real Estate Business also consists of a brokerage that matches residential home buyers interested in newly constructed homes with builders and currently operates under the brand name "iNest®."

Lending Business

Our Lending Networks

Consumers can access Tree.com's nationwide network of more than 200 banks, lenders and loan brokers online (via www.lendingtree.com or www.getsmart.com) or by calling 1-800-555-TREE. Loans offered by these banks, lenders and loan brokers (the "Network Lenders") consist primarily of home mortgages (in connection with refinancings and purchases) and home equity loans.

Tree.com selects lenders throughout the country in an effort to provide full geographic lending coverage of the country and to offer a complete suite of loan offerings available in the market. Typically, before a lender joins the Network, Tree.com performs credit and financial reviews on the lender. In addition, as a further quality assurance measure, Tree.com checks new lenders against a national antifraud database maintained by the Mortgage Asset Research Institute. All Network Lenders are required to enter into a contract that generally may be terminated upon notice by either party. No individual Network Lender accounted for more than 5% of the Lending Business revenue in any period.

Consumers seeking mortgage loans through one of Tree.com's lending networks can receive multiple conditional loan offers from Network Lenders, or from Tree.com's subsidiary doing business under the name "LendingTree Loans" (as described below), in response to a single loan request form.

The process by which the Lending Business matches consumers and Network Lenders is referred to in the document as the "matching process." This matching process consists of the following steps:

Credit Request. Consumers complete a single loan request form for the selected loan with information regarding their income, assets and liabilities, loan preferences and other data. Consumers also consent to the retrieval of their credit report.

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Loan Request Form Matching and Transmission. Tree.com proprietary technology matches a given consumer's loan request form data, credit profile and geographic location against certain pre-established creditworthiness criteria of Network Lenders, which may be modified from time to time. Once a given loan request passes through the matching process, the loan request is automatically transmitted to available Network Lenders, not exceeding five.

Lender Evaluation and Response. Network Lenders who receive a loan request form evaluate the information in the loan request to determine whether to make a conditional loan offer. If a given number of Network Lenders do not respond with a conditional loan offer, the loan request form is directed through the matching process a second time in an attempt to match the consumer with another Network Lender.

Communication of a Conditional Offer. If one or more Network Lenders make a conditional offer, the consumer is automatically notified via e-mail to return to the site and log in to a web-page reflecting their customized loan offers ("My Account"). Through the My Account web-page consumers may access and compare the proposed terms of each conditional offer, including: interest rate, closing costs, monthly payment amount, lender fees and other information. If a consumer does not have access to e-mail, conditional offers are provided to the consumer by phone or fax.

Loan Processing. Consumers work offline with the relevant Network Lender to provide property information and additional information bearing on creditworthiness to the Network Lender. If the Network Lender approves a consumer, it will then underwrite and originate the loan.

Ongoing Consumer and Lender Support. Active e-mail and telephone follow-up and support is provided to both Network Lenders and consumers during the loan transaction process. This follow-up and support is designed to provide technical assistance and increase overall satisfaction of Network Lenders, as well as increase the percentage of consumers who close a loan through financial institutions found through the Lending Business.

The Lending Business also offers a short-form matching process under the LendingTree® and GetSmart® brands. This process, which provides consumers with lender contact information only, typically requires the consumer to submit less data than that required in connection with the matching process described above.

The Lending Business does not charge consumers a fee to use its lending networks. Substantially all revenues from lending networks are derived from both up-front matching fees paid by Network Lenders who receive a loan request form and closing fees paid by Network Lenders who close a transaction with the consumer. Because a given loan request form can be matched with more than one Network Lender, up to five match fees may be generated from the same form. Matching fees are recognized at the time the loan request form is transmitted and closing fees are recognized at the time the Network Lender reports that it has closed the loan, which may be several months after the time the loan request form is transmitted.

LendingTree Loans/Home Loan Center, Inc.

The Lending Business also originates, processes, approves and funds various consumer mortgage loans through a Tree.com subsidiary, Home Loan Center, Inc., which operates primarily under the brand name "LendingTree Loans®." For these purposes, the Lending Business maintains loan origination offices in California and is able to provide a broad range of mortgage loan offerings to consumers in most states, primarily conforming and prime loans, and, to a lesser extent, non-conforming and FHA/Alt-A loans. Products available include both adjustable loans and fixed rate loans.

LendingTree Loans®-branded loan originations are principally derived from consumer loan requests received through www.lendingtree.com, www.getsmart.com or 1-800-555-TREE. A portion of all consumer loan request forms received through these channels are referred to LendingTree Loans.

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LendingTree Loans offers those consumers a choice among various loan alternatives, with loan pricing based upon different wholesale offerings received by LendingTree Loans from the secondary market investors who purchase the loans (plus a margin to cover internal costs). LendingTree Loans maintains controls to ensure that its consumer loan pricing correlates to secondary market pricing and to ensure that its consumers receive multiple loan alternatives, thus maintaining the competition and choice elements inherent in the LendingTree brand. Tree.com believes that LendingTree Loans provides value to consumers who do not wish to negotiate with multiple lenders, but still wish to obtain loan alternatives.

LendingTree Loans®-branded loans are funded and closed using proceeds from borrowings under available warehouse lines of credit or repurchase agreements. Substantially all of the loans funded are sold, along with the accompanying loan servicing rights, to investors in the secondary market, generally within 30 days of funding, with the proceeds from such sales being used to repay borrowings under the warehouse lines of credit or repurchase agreements. For terms of the warehouse lines of credit and repurchase agreements see "Financial Position, Liquidity and Capital Resources."

Although most of Home Loan Center, Inc.'s consumer leads are sourced through *www.lendingtree.com* or 1-800-555-TREE and originated under the LendingTree Loans® brand, a small portion of Home Loan Center, Inc.'s leads are sourced from a variety of non-LendingTree channels, including third-party online lead aggregators, direct mail marketing campaigns and *www.homeloancenter.com*. When obtaining leads from third-party sources, Home Loan Center, Inc. operates under its traditional name and brand (HomeLoanCenter). Consumers who request loans through the HomeLoanCenter brand typically receive single loan offers. HomeLoanCenter-branded loans are funded, closed and sold into the secondary market in the same manner, and on substantially the same terms, as LendingTree Loans-branded loans.

Revenues from direct lending operations are derived from the sale of loans to secondary market investors and from origination and other fees paid by borrowers. Of Home Loan Center, Inc.'s six secondary market investors in 2008, the two largest, Countrywide and CitiMortgage, represented approximately 12% and 11%, respectively, of Tree.com's consolidated revenue in 2008. See "Risk Factors Relating to the Business of Tree.com Following the Spin-Offs Adverse Events and Trends."

Other Businesses

Through the LendingTree.com and GetSmart.com websites, Tree.com's Lending Business also offers:

unsecured loans, through which consumers are matched with multiple lenders using a network-based process similar to the mortgage loan matching process described above;

automobile loans, through which consumers are linked with one or more third-party automobile lenders;

credit cards, through which consumers can search various credit card offerings through a third-party vendor;

reverse mortgage loans, through which consumers are linked with one or more third party providers; and

various consumer insurance products, pursuant to which consumers are linked with licensed insurance agents and insurance lead aggregators to obtain insurance offers.

Revenues from these businesses are derived either from matching and closing fees, or in some cases, volume-based marketing fees. While the revenues from these businesses do not currently represent a significant portion of the revenues of the Lending Business, these revenues are expected to grow over time.

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Competition

Tree.com's Lending Business, particularly its lending networks, competes with other lead aggregators, including online intermediaries that operate network-type arrangements. In the case of the direct lending operations, Tree.com believes that the primary competitors of its Lending Business are traditional lending institutions, including those that are developing their own direct, online lending channels. While these financial institutions do not operate lending networks, they process, close and fund loans as direct lenders through well-recognized, national brands, many of which are industry leaders. Tree.com's Lending Business also faces additional competition from direct lending websites owned and operated by other online lenders that originate the bulk of their loans through their websites or by phone. These companies typically operate a consumer-branded website and attract consumers via online banner ads, key word placement on search engines, partnering with affiliates and business development arrangements with other properties, including major online portals.

Real Estate Business

Real Estate Brokerage

RealEstate.com, REALTORS® is Tree.com's proprietary real estate brokerage business, which currently operates in 20 markets across the United States. Business for the proprietary real estate brokerage is generated internally based on consumers accessing www.realestate.com or by calling 1-800-REALESTATE, and generated externally by agents. The brokerage recruits agents to join as independent contractors, for whom it then generates leads, with the brokerage retaining a significant share of the gross commission on closed transactions originating from company-generated leads (and a lesser share in the case of agent-generated leads). Tree.com uses both a central agent recruiting group in Charlotte, as well as local recruiting efforts, to identify agents who fit its model and would be willing to join the company. Third-party brokerage services provided by approximately 300 real estate brokerage firms are also available through www.realestate.com or by calling 1-800-REALESTATE. The Real Estate Business has developed relationships with brokers over the years, and targets prospective companies based on available lead flow by geography, their willingness to work with a lead generation company under Tree.com's terms and conditions, and the belief that such brokerage firms would generate an acceptable closing conversion rate. These third-party brokerage services are available nationwide, as well as in the 20 markets in which RealEstate.com, REALTORS currently operates. Once the consumer and the real estate professional are matched and agree to work together, the remainder of the transaction is completed locally.

The RealEstate.com, REALTORS business earns revenues through the real estate brokerage commissions it collects in connection with company- and agent-generated transactions. For its third party brokerage referral services, the Real Estate Business also earns revenue from cooperative brokerage fees paid by participating real estate brokerages.

Other Real Estate Services

The Real Estate Business also owns and operates www.inest.com, a website that matches potential purchasers of newly constructed homes with new home builders. iNest.com is currently available in 30 states and allows consumers to view new home community information (new home listings) on the iNest website. From the iNest website a consumer can print a coupon to present to builders that participate in the iNest.com network upon his or her first visit to a home site, which signifies that iNest.com will act as the buyer's real estate broker for a new home purchase from that builder. Upon closing, the builder pays a commission to iNest, which in turn is split between iNest, the licensed iNest real estate broker representing the consumer, and the consumer.

Competition

Tree.com's Real Estate Business competes with all real estate brokerages within the RealEstate.com, REALTORS® 20 markets. These brokerages are comprised mainly of traditional real

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estate companies operating as independent brands or franchisees, as well as non-traditional models, such as salaried-agent, fee-for-service, flat-fee, discount, or rebate commission models, many of which generate leads from the Internet. In addition, the Real Estate Business competes for customers with companies that are not brokerages, such as websites that aggregate real estate broker listings without related services and customer support. Given the downturn in the credit and mortgage markets and the decline in the number of housing transactions, competition in this segment has increased.

Regulation and Legal Compliance

Tree.com businesses market and provide services in heavily regulated industries through a number of different online and offline channels across the United States (see "Risk Factors Relating to the Business of Tree.com Following the Spin-Offs Compliance and Changing Laws, Rules and Regulations"). As a result, they are subject to a variety of statutes, rules, regulations, policies and procedures in various jurisdictions in the United States, including:

Restrictions on the amount and nature of fees or interest that may be charged in connection with a loan, in particular, state usury and fee restrictions;

Restrictions on the manner in which consumer loans are marketed and originated, including the making of required consumer disclosures, such the federal Truth-in-Lending Act, the federal Equal Credit Opportunity Act, the federal Fair Credit Reporting Act, the federal Fair Housing Act, the federal Real Estate Settlement Procedures Act (RESPA), and similar state laws;

Restrictions on the amount and nature of fees that may be charged lenders and real estate professionals for providing or obtaining consumer leads, in particular, RESPA;

Restrictions on the amount and nature of fees that may be charged consumers for real estate brokerage transactions, including any incentives and rebates, that may be offered to consumers by Tree.com businesses;

State, and in some instances, federal, licensing or registration requirements applicable to both individuals or businesses engaged in the making or brokerage of loans (or certain kinds of loans, such as loans made pursuant to the Federal Housing Act), or the brokering of real estate transactions; and

State and federal restrictions on the marketing activities conducted by telephone, the mail or by email, or over the internet, including the Telemarketing Sales Rule, state telemarketing laws, federal and state privacy laws, the CAN-SPAM Act, and the Federal Trade Commission Act and its accompanying regulations and guidelines.

Employees

As of December 31, 2008, Tree.com had approximately 700 full-time employees. None of Tree.com's employees are represented under collective bargaining agreements. Tree.com considers its relations with its employees and independent contractors to be good.

Additional Information

Company Website and Public Filings. The Company maintains a website at www.tree.com. None of the information on the Company's website is incorporated by reference in this report, or in any other filings with, or in any information furnished or submitted to, the SEC.

The Company makes available, free of charge through its website, its Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q and Current Reports on Form 8-K (including related amendments) as soon as reasonably practicable after they have been electronically filed with, or furnished to, the SEC.

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Code of Business Conduct and Ethics. The Company's code of business conduct and ethics, which applies to all employees, including all executive officers and senior financial officers and directors, is posted on the Company's website at investor-relations.tree.com/governance.cfm. The code of conduct and ethics complies with Item 406 of SEC Regulation S-K and the rules of The Nasdaq Stock Market. Any changes to the code of conduct and ethics that affect the provisions required by Item 406 of Regulation S-K, and any waivers of the code of conduct and ethics for Tree.com's executive officers, directors or senior financial officers, will also be disclosed on Tree.com's website.

Item 1A. Risk Factors

Cautionary Statement Regarding Forward-Looking Information

This Annual Report on Form 10-K contains "forward looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. The use of words such as "anticipates," "estimates," "expects," "projects," "intends," "plans" and "believes," among others, generally identify forward-looking statements. These forward-looking statements include, among others, statements relating to: Tree.com's anticipated financial performance, Tree.com's business prospects and strategy, anticipated trends and prospects in the various industries in which Tree.com businesses operate, new products, services and related strategies and other similar matters. These forward looking statements are based on management's current expectations and assumptions about future events, which are inherently subject to uncertainties, risks and changes in circumstances that are difficult to predict.

Actual results could differ materially from those contained in the forward looking statements included in this report for a variety of reasons, including, among others, the risk factors set forth below. Other unknown or unpredictable factors that could also adversely affect Tree.com's business, financial condition and results of operations may arise from time to time. In light of these risks and uncertainties, the forward looking statements discussed in this report may not prove to be accurate. Accordingly, you should not place undue reliance on these forward looking statements, which only reflect the views of Tree.com management as of the date of this report. Tree.com does not undertake to update these forward-looking statements.

Risk Factors

Tree.com's business, financial condition and results of operations are subject to certain risks that are described below. The risks and uncertainties described below are not the only ones facing Tree.com. Additional risks and uncertainties not presently known or that are currently deemed immaterial may also impair Tree.com's business, financial condition and results of operations.

Risk Factors Relating to Spin-off from IAC

As a result of our spin-off from IAC in August 2008, we may be unable to operate effectively as a separate public entity.

We were spun off from IAC on August 20, 2008. IAC has no continuing obligation to provide financial, operational or organizational assistance to us, other than limited services pursuant to a transition services agreement. As a separate public entity, we are subject to, and responsible for, regulatory compliance, including periodic public filings with the SEC and compliance with NASDAQ's continued listing requirements, as well as generally applicable tax and accounting rules. We may be unable to implement successfully the changes necessary to operate effectively as an independent public entity.

We are incurring increased costs relating to operating as an independent company that are impacting our cash flow and results of operations.

The obligations of being a public company, including substantial public reporting and investor relations obligations, are requiring new expenditures, placing new demands on our management and

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necessitating the hiring of additional personnel. We may need to implement additional systems that require new expenditures in order to adequately function as a public company. Such expenditures could adversely affect our business, financial condition and results of operations.

In addition, prior to the spin-off, by virtue of being under the same corporate structure, IAC's businesses shared economies of scope and scale in costs, human capital, vendor relationships and customer relationships with the businesses that we own following the spin-off. The increased costs resulting from the loss of these benefits have had, and could continue to have, an adverse effect on us.

The market price and trading volume of our common stock may be volatile and may face negative pressure.

Following the spin-off, our common stock became publicly traded for the first time. The market price for our common stock has been volatile, especially in light of recent market instability. The market price for our common stock could continue fluctuate significantly for many reasons, including the risks identified herein or reasons unrelated to our performance. These factors may result in short- or long-term negative pressure on the value of our common stock.

Financing We may have future capital needs and may not be able to obtain additional financing on acceptable terms.

As a standalone company, we are no longer able to rely on IAC to satisfy any of our financing needs and must rely on external sources of credit. The current uncertainties surrounding the industries in which we operate, general reductions in the availability of credit, as well as other factors, may constrain our financing abilities. Our ability to secure additional financing and satisfy our financial obligations under indebtedness outstanding from time to time will depend upon our future operating performance, which is subject to then-prevailing general economic and credit market conditions, including interest rate levels and the availability of credit generally, and financial, business and other factors, many of which are beyond our control. The prolonged continuation or worsening of current credit market conditions would have a material adverse effect on our ability to secure financing on favorable terms, if at all.

We may be unable to secure additional financing or financing on favorable terms or our operating cash flow may be insufficient to satisfy our financial obligations under indebtedness outstanding from time to time. Furthermore, if financing is not available when needed, or is available on unfavorable terms, we may be unable to develop new or enhance our existing services, complete acquisitions or otherwise take advantage of business opportunities or respond to competitive pressures, any of which could have a material adverse effect on our business, financial condition and results of operations. If additional funds are raised through the issuance of equity securities, our stockholders may experience significant dilution.

The spin-off agreements were not the result of arm's length negotiations. In addition, the tax sharing agreement restricts our ability to enter into certain transactions that might otherwise be beneficial to us and our stockholders.

The agreements that we entered into with IAC in connection with the spin-off, including the separation and distribution agreement, tax sharing agreement, employee matters agreement and transition services agreement, were established by IAC. Accordingly, the terms for us may not be as favorable as would have resulted from negotiations among unrelated third parties.

The tax sharing agreement with IAC restricts our ability to enter into certain transactions that might be advantageous to us and our stockholders. In particular, the tax sharing agreement limits our ability to repurchase equity securities, dispose of certain assets, engage in mergers and acquisitions and, under certain circumstances, acquire businesses or assets with equity securities or agree to be acquired by a third party.

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Risk Factors Relating to our Business

Adverse Events and Trends *Adverse conditions in the primary and secondary mortgage markets, as well as the economy generally, could materially and adversely affect our business, financial condition and results of operations.*

The primary and secondary mortgage markets have been experiencing unprecedented and continuing disruption, which has had, and is expected to continue to have, an adverse effect on our business, financial condition and results of operations. These conditions, coupled with adverse economic conditions and continuing declines in residential real estate prices generally, have resulted, and are expected to continue to result, in decreased consumer demand for the lending and real estate offerings provided by our networks and other businesses. Generally, increases in interest rates adversely affect the ability of the Lending Business and Network Lenders to close loans, while adverse economic trends limit the ability of the Lending Business and Network Lenders to offer home loans other than low margin conforming loans. Likewise, adverse economic trends have reduced, and are expected to continue to reduce, the number of prospective home purchasers and home prices, which adversely affects our Real Estate Business. Our businesses may experience a further decline in demand for their offerings due to decreased consumer demand as a result of the conditions described above now or in the future. Conversely, during periods of robust consumer demand, which are typically associated with decreased interest rates, some Network Lenders may have less incentive to use our networks, or in the case of sudden increases in consumer demand, our Network Lenders may lack the ability to support sudden increases in volume. Prolonged declines in demand for offerings of our businesses could have a material adverse effect on our business, financial condition and results of operations.

The secondary mortgage markets have also been experiencing unprecedented and continued disruptions resulting from reduced investor demand for mortgage loans and mortgage-backed securities and increased investor yield requirements for those loans and securities. These conditions may continue for a prolonged period of time or worsen in the future. Home Loan Center, Inc. ("HLC") does not have the capital resources or credit necessary to retain the loans it funds and closes and, as a result, sells substantially all such loans within 30 days of funding as discussed above. Accordingly, a prolonged period of secondary market illiquidity may force the Lending Business to significantly reduce the volume of loans that it originates and funds through HLC, which could have an adverse effect on our business, financial condition and results of operations.

These disruptions and volatility in the capital and credit markets have resulted in rapid and steep declines in prevailing stock prices, particularly in the financial services sector, as well as downward pressure on credit availability. These adverse conditions adversely affect our Network Lenders, secondary market purchasers, and third-party real estate professionals, and may render them unwilling or unable to continue business relationships with us. If current levels of market disruption and volatility continue or worsen, there can be no assurance that we will not experience an adverse effect on our business relationships and on our business, financial condition and results of operations.

Adverse Events and Trends *Difficult market conditions have adversely affected our industry.*

Declines in the housing market over the past year, with falling home prices and increasing foreclosures, unemployment and under-employment, have negatively impacted the credit performance of mortgage loans and resulted in significant write-downs of asset values by financial institutions, including government-sponsored entities as well as major commercial and investment banks. These write-downs, initially of mortgage-backed securities but spreading to other asset-backed securities, credit default swaps and other derivative and cash securities, in turn, have caused many financial institutions to seek additional capital, to merge with larger and stronger institutions and, in some cases, to fail. Reflecting concern about the stability of the financial markets generally and the strength of counterparties, many lenders and institutional investors have reduced or ceased providing funding to

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borrowers, including to other financial institutions. This market turmoil and tightening of credit have led to an increased level of commercial and consumer delinquencies, lack of consumer confidence, increased market volatility and widespread reduction of business activity generally. The resulting economic pressure on consumers and lack of confidence in the financial markets may have an adverse effect on our business, financial condition and results of operations.

We do not expect that the difficult conditions in the financial markets will likely improve in the near future. A worsening of these conditions would likely exacerbate the adverse effects of these difficult market conditions on us and others in the financial services industry. Further, our business could be adversely affected by the actions and commercial soundness of other businesses in the financial services sector. As a result, defaults by, or even rumors or questions about, one or more of these entities, or the financial services industry generally, have led to market-wide liquidity problems and could lead to losses or defaults by us or by other institutions. Any such losses or defaults could have an adverse effect on our business, financial condition and results of operations.

Adverse Events and Trends *Adverse conditions in the credit markets could materially and adversely affect our business, financial condition and results of operations.*

The credit markets, in particular those financial institutions that provide warehouse financing and similar arrangements to mortgage lenders, have been experiencing unprecedented and continued disruptions resulting from instability in the mortgage and housing markets. Our Lending Business originates, processes, approves and funds various consumer mortgage loans through HLC, which operates primarily under the brand name "LendingTree Loans®." These direct lending operations have significant financing needs that are currently being met through borrowings under warehouse lines of credit or repurchase agreements to fund and close loans, followed by the sale of substantially all loans funded to investors in the secondary mortgage markets. Current credit market conditions, such as significantly reduced and limited availability of credit, increased credit risk premiums for certain market participants and increased interest rates generally, increase the cost and reduce the availability of debt and may continue for a prolonged period of time or worsen in the future.

As of December 31, 2008, LendingTree Loans had committed lines of credit totaling \$100 million, of which \$50 million is scheduled to expire on December 29, 2009, and another \$50 million was scheduled to expire on January 24, 2009, and an uncommitted line of credit of \$150 million. The \$50 million committed line of credit that was scheduled to expire on January 24, 2009 and the \$150 million uncommitted line were provided by the same lender. The \$50 million committed line of credit that was scheduled to expire on January 24, 2009 has been extended to April 30, 2009 while both parties work to finalize terms of an annual renewal, and, at the time of extension, the size of the \$150 million uncommitted line was reduced to \$50 million. The interest rate under the \$50 million committed line that expires on December 29, 2009 is 30-day LIBOR plus 125 basis points. The interest rate under the \$50 million committed line of credit that was extended to April 30, 2009 is 30-day LIBOR plus 225 basis points. The interest rate under the \$50 million uncommitted line of credit is 30-day LIBOR plus 150 basis points. The \$50 million committed line of credit expiring on April 30, 2009 can be cancelled at the option of the lender without default upon sixty days notice. Borrowings under these lines of credit are used to fund, and are secured by, consumer residential loans that are held for sale. Loans under these lines of credit are repaid from proceeds from the sales of loans held for sale by LendingTree Loans. Borrowings under all of LendingTree Loans' lines of credit are non-recourse to Tree.com. LendingTree Loans is highly dependent on the availability of credit to finance its operations.

Although we believe that our existing lines of credit are adequate for our current operations, further reductions in our available credit, or the inability to renew or replace these lines, could have an adverse effect on our business, financial condition and results of operations. The Lending Business attempts to mitigate the impact of current conditions and future credit market disruptions by

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maintaining committed and uncommitted warehouse lines of credit with several financial institutions. However, these financial institutions, like all financial institutions, are subject to the same adverse market conditions and may be affected by recent market disruptions, which may affect the decision to reduce or renew these lines, or the pricing for these lines. As a result, current committed warehouse lines of credit may be reduced or not renewed, and alternative financing may be unavailable or inadequate to support operations or the cost of such alternative financing may not allow HLC to operate at profitable levels. Because HLC is highly dependent on the availability of credit to finance its operations, the continuation of current credit market conditions for a prolonged period of time or the worsening of such conditions could have an adverse effect on our business, financial condition and results of operations, particularly over the next few years.

Adverse Events and Trends *Our financial results fluctuate as a result of seasonality, which may make it difficult to predict our future performance and may affect our common stock price.*

Our business is generally subject to seasonal trends. These trends reflect the general patterns of housing sales, which typically peak in the spring and summer seasons. As a result, our quarterly operating results may fluctuate, which may negatively impact the price of our common stock.

Contingent Liabilities *Litigation and Indemnification of Secondary Market Purchasers* *Litigation and indemnification of secondary market purchasers could have a material adverse effect on our business, financial condition, results of operations and liquidity.*

In connection with the sale of loans to secondary market purchasers, HLC makes certain representations regarding related borrower credit information, loan documentation and collateral. To the extent that these representations are incorrect, HLC may be required to repurchase loans or indemnify secondary market purchasers for losses due to borrower defaults. While HLC seeks to ensure that loans it originates comply with these representations, secondary market purchasers may take a contrary position. In connection with the sale of loans to secondary market purchasers, HLC also agrees to repurchase loans or indemnify secondary market purchasers for losses due to early payment defaults (*i.e.*, late payments during a limited time period immediately following HLC's origination of the loan). In connection with the sale of a majority of its loans to secondary market purchasers, HLC also agrees to repay all or a portion of the initial premiums paid by secondary market purchasers in instances where the borrower prepays the loan within a specified period of time.

We and our businesses are also parties to litigation involving a variety of matters, many of which involve damage claims for substantial amounts (see Part II, Item 3 above).

We believe that we will have adequate resources to satisfy our obligations relating to the potential exposures described above. However, it is possible that these liabilities will be greater than anticipated. If the liabilities are in excess of expectations, our ability to satisfy such obligations may be dependent upon our ability to raise capital in the debt or equity markets, which may be uncertain.

Third-Party Relationships *We depend on relationships with Network Lenders, real estate professionals, credit providers and secondary market investors and any adverse changes in these relationships could adversely affect our business, financial condition and results of operations.*

Our success depends, in significant part, on the quality and pricing of services provided by, and/or the continued financial stability of, Network Lenders and real estate professionals participating on our networks, credit providers and secondary market investors. Network Lenders or real estate professionals could, for any reason, cease participating on the networks operated by (or otherwise choose not to enter into relationships with) our businesses, fail to pay matching and/or closing fees when due and/or cease providing quality services on competitive terms. In addition, credit providers and/or secondary market investors could, for any reason, choose not to make credit available to (or

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otherwise enter into relationships with) HLC, and in the case of secondary market investors only, cease purchasing loans from HLC. In particular, revenues attributable to purchases of loans by two such entities, Countrywide and CitiMortgage, represented approximately 12% and 11%, respectively, of our consolidated revenues in 2008. The occurrence of one or more of these events by a significant number of Network Lenders, real estate professionals, credit providers and/or secondary market investors could, alone or in combination, have a material adverse effect on our business, financial condition and results of operations.

Network Security *A breach of our network security or the misappropriation or misuse of personal consumer information may have an adverse impact on our business, financial condition and results of operations.*

Any penetration of network security or other misappropriation or misuse of personal consumer information maintained by us could cause interruptions in the operations of our businesses and subject us to increased costs, litigation and other liabilities. Claims could also be made against us for other misuse of personal information, such as for unauthorized purposes or identity theft, which could result in litigation and financial liabilities, as well as administrative action from governmental authorities. Security breaches could also significantly damage our reputation with consumers and third parties with whom we do business. In that regard, on April 21, 2008, we announced that several mortgage companies had gained unauthorized access to LendingTree's customer information database and had used the information to solicit mortgage loans directly from our customers. We promptly reported the situation to the Federal Bureau of Investigation and have been cooperating fully with the FBI's investigation. While LendingTree does not believe this situation resulted in any fraud on the consumer or identity theft, LendingTree notified affected consumers as required by applicable law. Notwithstanding the foregoing, following our announcement, several putative class action lawsuits were filed against LendingTree, seeking to recover damages for consumers allegedly injured by this incident (see Part II, Item 1 above).

As in the case of any financial services company, we may be required to expend significant capital and other resources to protect against and remedy any potential or existing security breaches and their consequences. We also face risks associated with security breaches affecting third parties with which we are affiliated or otherwise conduct business online. Consumers are generally concerned with security and privacy of the Internet, and any publicized security problems affecting our businesses and/or those of third parties may discourage consumers from doing business with us, which could have an adverse effect on our business, financial condition and results of operations.

Failure to Provide Competitive Service *Network Lenders and real estate professionals may not provide competitive levels of service to consumers, which could adversely affect our brands and businesses and their ability to attract consumers.*

The ability of our businesses to provide consumers with a high-quality experience depends, in part, on consumers receiving competitive levels of convenience, customer service, price and responsiveness from Network Lenders and real estate professionals with whom they are matched through our networks. If Network Lenders and real estate professionals do not provide consumers with competitive levels of convenience, customer service, price and responsiveness, the value of our various brands may be harmed, the ability of our businesses to attract consumers to our websites may be limited and the number of consumers ultimately matched through our networks may decline, which could have a material adverse effect on our business, financial condition and results of operations.

Brand Recognition *Failure to maintain brand recognition and attract and retain customers in a cost-effective manner could adversely affect our business, financial condition and results of operations.*

In order to attract visitors to their websites, convert these visitors into paying customers and capture repeat business from existing customers, our businesses must promote and maintain their

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various brands successfully, which involves the expenditure of considerable money and resources for online and offline advertising, marketing and related efforts, as well as the continued provision and introduction of high-quality products and services.

We believe that continuing to build and maintain the recognition of our various brands is critical to achieving increased demand for the services provided by our businesses, given that brand recognition is a key differentiating factor among providers of online services. Accordingly, we have spent, and expect to continue to spend, significant amounts of money on, and devote significant resources to, branding, advertising and other marketing initiatives, which may not be successful or cost-effective. The failure of our businesses to maintain the recognition of their respective brands and attract and retain customers in a cost-effective manner could adversely affect our business, financial condition and results of operations.

Lastly, publicity from legal proceedings against us or our businesses, particularly governmental proceedings, consumer class action litigation or the disclosure of information security breaches, could negatively impact our various brands, which could adversely affect our business, financial condition and results of operations.

Technology We depend on search engines and other online sources to attract visitors to our websites, and if we are unable to attract these visitors and convert them into customers in a cost-effective manner, our business and financial results may be harmed.

Our success depends on our ability to attract online consumers to our websites and convert them into customers in a cost-effective manner. We depend, in part, on search engines and other online sources for our website traffic. We are included in search results as a result of both paid search listings, where we purchase specific search terms that will result in the inclusion of our listing, and algorithmic searches that depend upon the searchable content on our sites. Search engines and other online sources revise their algorithms from time to time in an attempt to optimize their search results.

If one or more of the search engines or other online sources on which we rely for website traffic were to modify its general methodology for how it displays our websites, resulting in fewer consumers clicking through to our websites, our business, financial condition and results of operations could suffer. If any free search engine on which we rely begins charging fees for listing or placement, or if one or more of the search engines or other online sources on which we rely for purchased listings, modifies or terminates its relationship with us, our expenses could rise, we could lose customers and traffic to our websites could decrease, all of which could have a material adverse effect on our business, financial condition and results of operations.

Technology If we are unable to continually enhance our products and services and adapt them to technological changes and customer needs, including the emergence of new computing devices and more sophisticated online services, we may lose market share and revenue and our business could suffer.

We need to anticipate, develop and introduce new products, services and applications on a timely and cost-effective basis that keeps pace with technological developments and changing customer needs. For example, the number of individuals who access the internet through devices other than a personal computer, such as personal digital assistants, mobile telephones, televisions and set-top box devices, has increased dramatically, and this trend is likely to continue. Our websites were designed for rich, graphical environments such as those available on desktop and laptop computers. The lower resolution, functionality and memory associated with alternative devices currently available may make the access and use of our websites through such devices difficult. Because each manufacturer or distributor may establish unique technical standards for its devices, our websites may not be functional or viewable on these devices. Additionally, new devices and new platforms are continually being released. Accordingly, it is difficult to predict the problems we may encounter in improving our websites' functionality with

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these alternative devices, and we may need to devote significant resources to the improvement, support and maintenance of our websites. If we fail to develop our websites to respond to these or other technological developments and changing customer needs cost effectively, we may lose market share, which could adversely affect our business, financial condition and results of operations.

Third-Party Relationships Are Not Exclusive Network Lenders and real estate professionals affiliated with our networks are not precluded from offering products and services outside of our networks.

Because our businesses do not have exclusive relationships with Network Lenders and real estate professionals, consumers may obtain loans and real estate offerings directly from these third-party service providers without having to use our networks. Network Lenders can offer loans (and real estate professionals can offer services) directly to consumers through marketing campaigns or other traditional methods of distribution, such as referral arrangements, brick and mortar operations or, in the case of lending, broker agreements. Network Lenders and real estate professionals can also offer loans and services to prospective customers online directly, through one or more online competitors of our businesses, or both. If a significant number of consumers seek loans and services directly from Network Lenders and real estate professionals as opposed to through our networks, our business, financial condition and results of operations would be adversely affected.

Compliance and Changing Laws, Rules and Regulations Failure to comply with existing or evolving laws, rules and regulations, or to obtain and maintain required licenses, could adversely affect our business, financial condition and results of operations.

The failure of our businesses to comply with existing laws, rules and regulations, or to obtain required licenses, could result in administrative fines and/or proceedings against us or our businesses by governmental agencies and/or litigation by consumers, which could adversely affect our business, financial condition and results of operations. Our businesses market and provide services in heavily regulated industries through a number of different online and offline channels across the United States. As a result, our businesses are subject to a variety of statutes, rules, regulations, policies and procedures in various jurisdictions in the United States, which are subject to change at any time.

Our businesses conduct marketing activities via the telephone, the mail and/or through online marketing channels, which general marketing activities are governed by numerous federal and state regulations, such as the Telemarketing Sales Rule, state telemarketing laws, federal and state privacy laws, the CAN-SPAM Act, and the Federal Trade Commission Act and its accompanying regulations and guidelines, among others. While we believe that the practices of our businesses have been structured in a manner to ensure compliance with these laws and regulations, federal or state regulatory authorities may take a contrary position.

Additional federal, state and in some instances, local, laws regulate residential lending and real estate brokerage activities in particular. These laws generally regulate the manner in which lending, lending-related and real estate brokerage activities are marketed or made available, including advertising and other consumer disclosures, payments for services and record keeping requirements; these laws include the Real Estate Settlement Procedures Act ("RESPA"), the Fair Credit Reporting Act, the Truth in Lending Act, the Equal Credit Opportunity Act, the Fair Housing Act and various state laws. In addition, state laws often restrict the amount of interest and fees that may be charged by a lender or mortgage broker, or otherwise regulate the manner in which lenders or mortgage brokers operate or advertise. Furthermore, Congress, many state legislatures and state agencies are proposing, or have recently implemented, additional restrictions on mortgage lending practices. Compliance with these new requirements may render it more difficult to operate or may raise our internal costs. Failure to comply with applicable laws and regulatory requirements may result in, among other things, revocation of required licenses or registrations, loss of approval status, termination of contracts without compensation, administrative enforcement actions and fines, class action lawsuits, cease and desist

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orders and civil and criminal liability. While we believe that our businesses have been structured in such a way so as to comply with existing and new laws, the relevant regulatory authorities may take a contrary position or future legislation may adversely affect our business, financial condition and results of operations.

Most states require licenses to solicit, broker or make loans secured by residential mortgages and other consumer loans to residents of those states, as well as to operate real estate referral and brokerage services, and in many cases require the licensure or registration of individual employees engaged in aspects of these businesses. In 2008, Congress mandated that all states adopt certain minimum standards for the licensing of individuals involved in mortgage lending or loan brokering, and many state legislatures and state agencies are in the process of adopting or implementing additional licensing, continuing education, and similar requirements on mortgage lenders, brokers and their employees. Compliance with these new requirements may render it more difficult to operate or may raise our internal costs. While our businesses have endeavored to comply with applicable requirements, the application of these requirements to persons operating online is not always clear. Moreover, any of the licenses or rights currently held by our businesses or our employees may be revoked prior to, or may not be renewed upon, their expiration. In addition, our businesses or our employees may not be granted new licenses or rights for which they may be required to apply from time to time in the future.

Likewise, states or municipalities may adopt statutes or regulations making it unattractive, impracticable, or infeasible for our businesses to continue to conduct business in that jurisdiction. The withdrawal from any jurisdiction due to emerging legal requirements could adversely affect our business, financial condition and results of operations.

Our businesses are also subject to various state, federal and/or local laws, rules and regulations that regulate the amount and nature of fees that may be charged for transactions and incentives, such as rebates, that may be offered to consumers by our businesses, as well as the manner in which these businesses may offer, advertise or promote transactions. For example, RESPA generally prohibits the payment or receipt of referral fees and fee shares or splits in connection with residential mortgage loan transactions, subject to certain exceptions. The applicability of referral fee and fee sharing prohibitions to lenders and real estate providers, including online networks, may have the effect of reducing the types and amounts of fees that may be charged or paid in connection with real estate-secured loan offerings or activities, including mortgage brokerage, lending and real estate brokerage services, or otherwise limiting the ability to conduct marketing and referral activities. Although we believe that our businesses have been structured in such a way so as to comply with RESPA, the relevant regulatory agency may take a contrary position.

Our Real Estate Business is subject to rules and regulations of various real estate boards, as well as the rules of various non-governmental associations and organizations, including but, not limited to, local and regional Multiple Listing Services that provide real estate listing data. Our Real Estate Business is dependent on real estate listing data made available through Multiple Listing Services and other sources. While we believe that our Real Estate Business is structured to comply with these rules and regulations, the relevant organization may take a contrary position, which could adversely affect our business, financial condition and results of operations.

In addition, some states have regulations that prohibit real estate brokers from providing consumers with rebates or other incentives in connection with real estate transactions. Additional states could promulgate similar regulations or interpret existing regulations in a way that limits the ability of online networks to offer consumer incentives in connection with real estate transactions, thereby limiting the attractiveness of real estate brokerage activities offered by our Real Estate Business.

Federal, state and in some instances, local, laws also prohibit unfair and deceptive sales practices generally. While we have adopted appropriate policies and procedures to address these requirements (such as appropriate consumer disclosures and call scripting, call monitoring, and other quality assurance and compliance measures), employees do not always comply with policies and procedures, and therefore, liability and brand injury could result from such employee misconduct.

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As employers, our businesses are subject to federal and state employment laws. In particular, the Fair Labor Standards Act and California wage and hour laws govern the treatment of "non-exempt" employees, which may include loan officers, underwriters, and loan processors at Home Loan Center, Inc. Failure to comply with applicable employment laws may result in, among other things, administrative fines, class action lawsuits, damages awards and injunctions, any of which could adversely affect our business, financial condition and results of operations.

Parties through which our businesses conduct business similarly may be subject to federal and state regulation. These parties typically act as independent contractors and not as agents in their solicitations and transactions with consumers. Consequently, we cannot ensure that these entities will comply with applicable laws and regulations at all times. Failure on the part of a lender, secondary market purchaser, real estate professional, website operator or other third party to comply with these laws or regulations could result in, among other things, claims of vicarious liability or a negative impact on the reputation of Tree.com and its businesses. The occurrence of one or more of these events could have an adverse effect on our business, financial condition and results of operations.

Third Party Compliance *If Network Lenders fail to produce required documents for examination by, or other affiliated parties fail to make certain filings with, state regulators, Tree.com may be subject to fines, forfeitures and the revocation of required licenses.*

Some of the states in which our businesses maintain licenses require them to collect various loan documents from Network Lenders and produce these documents for examination by state regulators. While Network Lenders are contractually obligated to provide these documents upon request, these measures may be insufficient. Failure to produce required documents for examination could result in fines, as well as the revocation of our businesses' licenses to operate in key states, which could have a material adverse affect on our business, financial condition and results of operations.

Regulations promulgated by some states may impose compliance obligations on directors, executive officers, large customers and any person who acquires a certain percentage (for example, 10% or more) of our common stock, including requiring such persons to periodically file financial and other personal and business information with state regulators. If any such person refuses or fails to comply with these requirements, our businesses may be unable to obtain a license, and existing licensing arrangements may be jeopardized. The inability to obtain, or the loss of, required licenses could have a material adverse effect on our business, financial condition and results of operations.

Maintenance of Systems and Infrastructure *Our success depends, in part, on the integrity of our systems and infrastructures. System interruption and the lack of integration and redundancy in these systems and infrastructures may have an adverse impact on our business, financial condition and results of operations.*

Our success depends, in part, on our ability to maintain the integrity of our systems and infrastructures, including websites, information and related systems, call centers and distribution and fulfillment facilities. System interruption and the lack of integration and redundancy in our information systems and infrastructures may adversely affect our ability to operate websites, process and fulfill transactions, respond to customer inquiries and generally maintain cost-efficient operations. We may experience occasional system interruptions that make some or all systems or data unavailable or prevent our businesses from efficiently providing services or fulfilling orders. We also rely on affiliate and third-party computer systems, broadband and other communications systems and service providers in connection with the provision of services generally, as well as to facilitate, process and fulfill transactions. Any interruptions, outages or delays in our systems and infrastructures, our businesses, our affiliates and/or third parties, or deterioration in the performance of these systems and infrastructures, could impair the ability of our businesses to provide services, fulfill orders and/or process transactions. Fire, flood, power loss, telecommunications failure, hurricanes, tornadoes, earthquakes, acts of war or terrorism, acts of God, unauthorized intrusions or computer viruses, and similar events or disruptions may damage or interrupt computer, broadband or other communications systems and infrastructures at any time. Any of these events could cause system interruption, delays and loss of critical data, and

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could prevent our businesses from providing services, fulfilling orders and/or processing transactions. While our businesses have backup systems for certain aspects of their operations, these systems are not fully redundant and disaster recovery planning is not sufficient for all eventualities. In addition, we may not have adequate insurance coverage to compensate for losses from a major interruption. If any of these adverse events were to occur, it could adversely affect our business, financial condition and results of operations.

In addition, any penetration of network security or other misappropriation or misuse of personal consumer information could cause interruptions in the operations of our businesses and subject us to increased costs, litigation and other liabilities. Claims could also be made against us for other misuse of personal information, such as for unauthorized purposes or identity theft, which could result in litigation and financial liabilities, as well as administrative action from governmental authorities. Security breaches could also significantly damage our reputation with consumers and third parties with whom we do business. It is possible that advances in computer capabilities, new discoveries, undetected fraud, inadvertent violations of company policies or procedures or other developments could result in a compromise of information or a breach of the technology and security processes that are used to protect consumer transaction data. As a result, current security measures may not prevent any or all security breaches. We may be required to expend significant capital and other resources to protect against and remedy any potential or existing security breaches and their consequences. We also face risks associated with security breaches affecting third parties with which we are affiliated or otherwise conduct business online. Any publicized security problems affecting our businesses and/or those of third parties may discourage consumers from doing business with us, which could have an adverse effect on our business, financial condition and results of operations.

Privacy *The processing, storage, use and disclosure of personal data could give rise to liabilities as a result of governmental regulation, conflicting legal requirements or differing views of personal privacy rights.*

In the processing of consumer transactions, our businesses receive, transmit and store a large volume of personally identifiable information and other user data. The sharing, use, disclosure and protection of this information are governed by the privacy and data security policies maintained by us and our businesses. Moreover, there are federal, state and international laws regarding privacy and the storing, sharing, use, disclosure and protection of personally identifiable information and user data. Specifically, personally identifiable information is increasingly subject to legislation and regulations in numerous jurisdictions around the world, the intent of which is to protect the privacy of personal information that is collected, processed and transmitted in or from the governing jurisdiction. We could be adversely affected if legislation or regulations are expanded to require changes in business practices or privacy policies, or if governing jurisdictions interpret or implement their legislation or regulations in ways that negatively affect our business, financial condition and results of operations.

Our businesses may also become exposed to potential liabilities as a result of differing views on the privacy of consumer and other user data collected by these businesses. Our failure, and/or the failure by the various third party vendors and service providers with which we do business, to comply with applicable privacy policies or federal, state or similar international laws and regulations or any compromise of security that results in the unauthorized release of personally identifiable information or other user data could damage the reputation of these businesses, discourage potential users from our products and services and/or result in fines and/or proceedings by governmental agencies and/or consumers, one or all of which could adversely affect our business, financial condition and results of operations.

Intellectual Property *We may fail to adequately protect our intellectual property rights or may be accused of infringing intellectual property rights of third parties.*

We may fail to adequately protect our intellectual property rights or may be accused of infringing intellectual property rights of third parties. We regard our intellectual property rights, including patents, service marks, trademarks and domain names, copyrights, trade secrets and similar intellectual property

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(as applicable), as critical to our success. Our businesses also rely heavily upon software codes, informational databases and other components that make up their products and services.

We rely on a combination of laws and contractual restrictions with employees, customers, suppliers, affiliates and others to establish and protect these proprietary rights. Despite these precautions, it may be possible for a third party to copy or otherwise obtain and use trade secret or copyrighted intellectual property without authorization which, if discovered, might require legal action to correct. In addition, third parties may independently and lawfully develop substantially similar intellectual properties.

We have generally registered and continue to apply to register, or secure by contract when appropriate, our principal trademarks and service marks as they are developed and used, and reserve and register domain names when and where we deem appropriate. We generally consider the protection of our trademarks to be important for purposes of brand maintenance and reputation. While we vigorously protect our trademarks, service marks and domain names, effective trademark protection may not be available or may not be sought in every country in which products and services are made available, and contractual disputes may affect the use of marks governed by private contract. Similarly, not every variation of a domain name may be available or be registered, even if available. Our failure to protect our intellectual property rights in a meaningful manner or challenges to related contractual rights could result in erosion of brand names and limit our ability to control marketing on or through the Internet using our various domain names or otherwise, which could adversely affect our business, financial condition and results of operations.

Some of our businesses have been granted patents and/or have patent applications pending with the United States Patent and Trademark Office and/or various foreign patent authorities for various proprietary technologies and other inventions. We consider applying for patents or for other appropriate statutory protection when we develop valuable new or improved proprietary technologies or inventions are identified, and will continue to consider the appropriateness of filing for patents to protect future proprietary technologies and inventions as circumstances may warrant. The status of any patent involves complex legal and factual questions, and the breadth of claims allowed is uncertain. Accordingly, any patent application filed may not result in a patent being issued or existing or future patents may not be adjudicated valid by a court or be afforded adequate protection against competitors with similar technology. In addition, third parties may create new products or methods that achieve similar results without infringing upon patents that we own. Likewise, the issuance of a patent to us does not mean that our processes or inventions will be found not to infringe upon patents or other rights previously issued to third parties.

From time to time, in the ordinary course of business we are subjected to legal proceedings and claims, or threatened legal proceedings or claims, including allegations of infringement of the trademarks, copyrights, patents and other intellectual property rights of third parties. In addition, litigation may be necessary in the future to enforce our intellectual property rights, protect trade secrets or to determine the validity and scope of proprietary rights claimed by others. Any litigation of this nature, regardless of outcome or merit, could result in substantial costs and diversion of management and technical resources, any of which could adversely affect our business, financial condition and results of operations. Patent litigation tends to be particularly protracted and expensive.

Item 1B. *Unresolved Staff Comments*

Not applicable.

Item 2. *Properties*

Tree.com's principal executive offices, together with certain personnel and operations of its Lending and Real Estate Businesses, are currently located in approximately 75,000 square feet of office space in Charlotte, North Carolina under leases that expire in 2015, and 95,000 square feet of office space in Irvine, California utilized by Home Loan Center, Inc. under a lease expiring in 2010. In

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addition, the Real Estate Business has 26 offices located throughout the United States under leases that expire through 2013.

Item 3. Legal Proceedings

In the ordinary course of business, the Company and its subsidiaries are parties to litigation involving property, personal injury, contract, intellectual property and other claims. The amounts that may be recovered in such matters may be subject to insurance coverage.

Rules of the Securities and Exchange Commission require the description of material pending legal proceedings, other than ordinary, routine litigation incident to the registrant's business, and advise that proceedings ordinarily need not be described if they primarily involve damages claims for amounts (exclusive of interest and costs) not exceeding 10% of the current assets of the registrant and its subsidiaries on a consolidated basis. In the judgment of management, none of the pending litigation matters which the Company and its subsidiaries are defending, including those described below, involves or is likely to involve amounts of that magnitude. The litigation matters described below involve issues or claims that may be of particular interest to the Company's shareholders, regardless of whether any of these matters may be material to the financial position or operations of the Company based upon the standard set forth in the SEC's rules.

Patent Litigation

Source Search Technologies, LLC v. LendingTree, LLC, No. 2:04-CV-04420 (U.S. Dist. Ct., D.N.J.). Source Search Technologies, LLC v. LendingTree, LLC, No. 2:04-CV-04420 (U.S. Dist. Ct., D.N.J.). On September 13, 2004, Source Search Technologies, LLC ("SST") filed suit against LendingTree, LLC ("LendingTree") and other companies in the U.S. District Court for the District of New Jersey, alleging infringement of U.S. Patent No. 5,758,328 (the "'328 patent"), which generally claims a computerized procurement system. SST seeks damages, attorneys' fees and injunctive relief. On November 10, 2004, LendingTree filed a counterclaim seeking a declaration that the '328 patent is invalid and unenforceable.

The court issued claim construction orders on October 16 and November 13, 2007. Following the completion of discovery, LendingTree and SST filed cross-motions for summary judgment on the issues of infringement and invalidity. LendingTree also filed a motion for summary judgment on the ground that any infringement was not willful. The court heard oral argument on these motions on November 13, 2007 and February 4, 2008.

On July 9, 2008, the court entered an opinion regarding the parties' motions for summary judgment. The court granted LendingTree's motion that the asserted claims of the '328 patent are invalid for obviousness, granted SST's motion that LendingTree infringes the asserted '328 claims, granted SST's motion that the '328 claims are not invalid for indefiniteness, dismissed LendingTree's motion for summary judgment of no willful infringement as moot, and denied SST's motion to strike the supplemental report of LendingTree's expert. On July 10, 2008, the court entered an order consistent with the rulings in its opinion and closed the case.

On August 22, 2008, SST appealed the court's finding of invalidity and LendingTree cross appealed on the judgments of infringement and indefiniteness. LendingTree has not received notice from SST regarding whether it intends to appeal the court's ruling on obviousness. Opening briefs were filed in January 2009. Oral argument is expected in third quarter 2009.

Block Financial Corp. v. LendingTree, Inc., No. 01-cv-1007 ODS (U.S. Dist. Ct., W.D. Mo.); LendingTree, LLC v. Block Financial LLC, No. 08-cv-164 ODS (U.S. Dist. Ct., W.D. Mo.). On September 14, 2001, Block Financial Corporation ("Block") filed suit against LendingTree in the U.S. District Court for the Western District of Missouri, alleging that LendingTree's loan-matching process infringes U.S. Patent No. 6,014,645 (the "'645 patent"), which generally claims a real-time application system for financial cards. Block seeks damages, attorneys' fees and injunctive relief.

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In 2002, LendingTree, LLC filed a petition to reexamine the '645 patent with the United States Patent and Trademark Office. The Patent Office agreed to reexamine the '645 patent, and the court stayed the litigation pending reexamination. In December 2006, the Patent Office republished the patent, with certain modifications. The court then lifted its stay of the litigation. On September 27, 2007, the court issued a claim construction order.

In February 2008, Block provided LendingTree with notice of a recently issued patent, U.S. Patent No. 7,310,617 (the "'617 patent"), a continuation of the '645 patent that purports to claim a real-time application system for financial offerings (as opposed to only financial cards). On March 6, 2008, LendingTree filed suit in the U.S. District Court for the Western District of Missouri seeking a declaration that the '617 patent is invalid. On April 14, 2008, Block filed an answer and counterclaim. Block asserts that LendingTree's loan-matching process infringes the '617 patent. Block seeks damages, attorneys' fees and injunctive relief.

On June 24, 2008, the court consolidated the two cases and approved a schedule setting a trial date of October 26, 2009. The consolidated case is currently in discovery.

Employment (Wage/Hour) Litigation

Gonzalez v. Home Loan Center, Inc., No. CV06-5007 (U.S. Dist. Ct., C.D. Cal.). On August 9, 2006, Daniel Gonzalez filed this putative class action against Home Loan Center, Inc. ("HLC") in the U.S. District Court for the Central District of California. Plaintiff, a former HLC loan officer, asserted that HLC: failed to pay overtime; failed to pay wages due upon termination; failed to provide proper wage statements; failed to reimburse employees for expenses and/or improperly deducted wages for business-related expenses; and failed to provide meal and rest periods. Based upon these factual allegations, Plaintiff asserted violations of various California wage and hour laws, conversion, and violations of California Business & Professions Code § 17200 (the "UCL"). Plaintiff purported to represent a class of loan officers employed by HLC in California since August 9, 2002, and seeks damages, restitution, attorneys' fees and injunctive relief.

On December 27, 2006, Plaintiff filed a second amended complaint, adding two additional plaintiffs, David Nottingham and Jeffrey Howerton. Because these new plaintiffs had signed agreements with HLC to arbitrate all employment-related claims, HLC filed a motion to compel arbitration.

Following a mediation held in September 2007, the parties entered into an agreement to settle this action, subject to court approval. Under the settlement agreement, HLC agreed to pay a maximum of \$4.0 million, inclusive of payments to class members as well as attorneys' fees and costs. On May 13, 2008, Plaintiffs filed a motion for preliminary approval of the settlement. On June 13, 2008, the court, following a hearing, granted Plaintiffs' motion and preliminarily approved the settlement. The court also scheduled a final approval hearing for December 16, 2008.

As of September 30, 2007, LendingTree, LLC's reserve for this matter was approximately \$2.1 million. This figure reflected Tree.com's estimates as to the minimum percentage of class members likely to submit claims for payment and the contractual indemnity obligations of former HLC shareholders for liability that arose prior to LendingTree, LLC's acquisition of HLC. The number of class members actually submitting claims for payment was higher than expected, resulting in a larger overall settlement than originally forecasted. As a final settlement, in December 2008, HLC disbursed \$3.4 million to the class members collectively, of which approximately \$1.0 million is subject to contractual indemnification by the former HLC stockholders. Plaintiffs' claims were then dismissed on December 18, 2008.

Artzi v. LendingTree, LLC, IAC/InterActiveCorp, and Home Loan Center, Inc., No. 00180037 (Cal. Super. Ct., Orange Cty.). In September 2008, Elion Artzi and Shannon Kostadinov served this putative class action against LendingTree, IAC/InterActiveCorp and HLC in the Superior Court of California, County of Orange. Plaintiffs, former HLC underwriting clerks, allege that HLC: denied overtime compensation in violation of California labor law; failed to pay wages for compensable meal breaks in violation of California labor law; failed to pay timely wages in violation of California labor law; failed

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to furnish itemized wage statements in violation of California labor law; and based upon the foregoing, committed unfair business practices in violation of the UCL. Plaintiffs purport to represent all underwriting clerks employed by HLC in California since July 27, 2004.

Plaintiffs have not yet filed a motion for class certification. No trial date has been set. A status conference is set for March 9, 2009.

Richardson v. Home Loan Center, Inc., No. 07CC01337 (Cal. Super. Ct., Orange Cty.). On August 2, 2007, Angela Richardson filed this putative class action against HLC in the California Superior Court for Orange County. Plaintiff, a former HLC loan processor, alleges that HLC: failed to pay overtime; failed to provide meal and rest periods; failed to pay wages due upon termination; and failed to provide proper wage statements. Based upon these factual allegations, plaintiff asserts that HLC violated various California wage and hour laws as well as the UCL. Plaintiff purports to represent all loan processors, funders and underwriters employed by HLC since August 2, 2003, and seeks damages, restitution, attorneys' fees and injunctive relief.

After mediation on August 15, 2008, the parties entered into a tentative agreement for settlement of these three cases. Under the settlement agreement, HLC has agreed to pay a maximum of \$2.5 million for the *Richardson*, *Johanson*, and *D'Asero* cases, inclusive of payments to class members as well as attorneys' fees and costs. The settlement agreement must be approved by the court in order to become effective. The final approval hearing will be March 10, 2009. Settlement funds must be deposited into escrow by March 15, 2009.

As of January 9, 2009, LendingTree's reserve for this matter, and the *Johanson* and *D'Asero* matters below, was \$2.0 million, net of any amount subject to indemnification by the former HLC stockholders.

Primanto v. Home Loan Center, Inc., No. 07CC01382 (Cal. Super. Ct., Orange Cty.). On September 28, 2007, William Primanto filed this putative class action against HLC in the California Superior Court for Orange County. Plaintiff, a former HLC loan officer, alleges that HLC failed to pay overtime and asserts violations of various California wage and hour laws and of the UCL. Plaintiff purports to represent all loan officers employed by HLC in California since September 28, 2003, and seeks compensatory damages, statutory penalties, restitution and attorneys' fees.

On December 13, 2007, the court, at the request of the parties, entered an order staying the action pending resolution of the *Gonzalez* action (discussed above). The case remains stayed.

On January 8, 2009 the Plaintiff filed a dismissal with the court because Plaintiff will be participating in the *Richardson* settlement.

Johanson v. Home Loan Center, Inc., No. 07CC01405 (Cal. Super. Ct., Orange Cty.). On November 8, 2007, Brian Johanson and Brendan Dwyer filed this putative class action against HLC in the California Superior Court for Orange County. Plaintiffs, former HLC loan officers, assert that HLC: failed to pay overtime, compensation, commission wages and bonus wages; failed to provide proper wage statements; failed to provide rest periods and meal periods or compensation in lieu thereof; and failed to pay wages due employees upon termination. Based upon these factual allegations, Plaintiffs assert violations of various California wage and hour laws and of the UCL. Plaintiffs purport to represent a class of all persons employed by HLC in California since November 8, 2003, and seek compensatory damages, statutory penalties, restitution and attorneys' fees.

After mediation on August 15, 2008, the parties entered into a tentative agreement for settlement of these three cases. Under the settlement agreement, HLC has agreed to pay a maximum of \$2.5 million for the *Richardson*, *Johanson*, and *D'Asero* cases, inclusive of payments to class members as well as attorneys' fees and costs. The settlement agreement must be approved by the court in order to become effective. The final approval hearing will be March 10, 2009. Settlement funds must be deposited into escrow by March 15, 2009.

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As of January 9, 2009, LendingTree's reserve for this matter, and the *Richardson* and *D'Asero* matters was \$2.0 million, net of any amount subject to indemnification by the former HLC stockholders.

D'Asero v. Home Loan Center, Inc., No. SACV08-384 (U.S. Dist. Ct., C.D. Cal.). On April 9, 2008, Frank D'Asero, Ezekial Mohammed, Pouria Safabakhsh and Michael McCarver filed this putative class action against HLC in the U.S. District Court for the Central District of California. Plaintiffs, former HLC loan officers, allege that HLC: denied overtime compensation in violation of federal labor law; denied overtime compensation in violation of California labor law; failed to pay wages for compensable meal breaks in violation of California labor law; made unauthorized deductions from earned wages, failed to indemnify employees and coerced purchases in violation of California labor law; made unauthorized deductions from wages in violation of North Carolina labor law; failed to pay timely wages in violation of California labor law; failed to pay wages in violation of North Carolina labor law; failed to furnish itemized wage statements in violation of California labor law; and based upon the foregoing, committed unfair business practices in violation of the UCL.

Plaintiffs purport to represent all loan officers employed by HLC in California since April 9, 2004 and all loan officers employed by HLC in North Carolina since April 9, 2006. Plaintiffs also purport to bring a collective action under the federal Fair Labor Standards Act on behalf of all loan officers employed by HLC since April 9, 2005. Plaintiffs seek declaratory relief, an injunction, liquidated damages, compensatory damages, attorneys' fees, restitution and penalties.

On May 30, 2008, HLC filed a motion to compel arbitration of Plaintiffs' claims based upon their signed agreements with HLC to arbitrate all employment-related claims.

On June 10, 2008, Plaintiffs filed a first amended complaint, which added a new claim for violation of California's Private Attorneys General Act of 2004. In addition, on June 10, 2008, Plaintiffs filed a motion for conditional class certification. A hearing date on Plaintiffs' motion is scheduled for July 1, 2008.

After mediation on August 15, 2008, the parties entered into a tentative agreement for settlement of these three cases. Under the settlement agreement, HLC has agreed to pay a maximum of \$2.5 million for the *Richardson*, *Johanson*, and *D'Asero* cases, inclusive of payments to class members as well as attorneys' fees and costs. The settlement agreement must be approved by the court in order to become effective. The final approval hearing will be March 10, 2009. Settlement funds must be deposited into escrow by March 15, 2009.

As of January 9, 2009, LendingTree's reserve for this matter, and the *Richardson* and *Johanson* matters above, was \$2.0 million, net of any amount subject to indemnification by the former HLC stockholders.

Privacy / Information Security Litigation

Miller v. LendingTree, LLC, No. 08cv2300 (U.S. Dist. Ct., N.D. Ill.). On April 22, 2008, Eugene Miller filed this putative class action against LendingTree in the U.S. District Court for the Northern District of Illinois. The case arises out of LendingTree's April 21, 2008 announcement that unauthorized persons had gained access to non-public information relating to its customers. Plaintiff alleges that LendingTree is a "consumer reporting agency" within the meaning of the federal Fair Credit Reporting Act ("FCRA") and has violated the FCRA by failing to maintain reasonable procedures designed to limit the furnishing of consumer reports. Plaintiff also asserts claims for negligence, breach of implied contract, invasion of privacy and misappropriation of confidential information. Plaintiff purports to represent all LendingTree customers affected by the information security breach, and seeks damages, attorneys' fees and injunctive relief.

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On June 11, 2008, the plaintiffs in the *Spinozzi* and *Carson* cases (discussed below) filed a motion with the Judicial Panel on Multidistrict Litigation (the "MDL Panel"), requesting that it (1) exercise jurisdiction over all actions arising out of LendingTree's April 21, 2008 announcement that unauthorized persons had gained access to non-public information relating to its customers; and (2) consolidate all such cases and transfer them to the U.S. District Court for the Western District of North Carolina. On July 3, 2008, LendingTree joined the *Spinozzi* and *Carson* plaintiffs in support of this motion.

While this motion was pending before the MDL Panel, on June 23, 2008, LendingTree moved to dismiss the lawsuit and compel arbitration. On October 7, 2008, the MDL Panel granted the motion before it, transferring the *Miller* lawsuit to the Western District of North Carolina.

On February 5, 2009, a hearing was held on LendingTree's June 2008 motion to dismiss and to compel arbitration. At the hearing, the court granted LendingTree's motion, ordering the Plaintiff to arbitration and staying the litigation pending outcome of the arbitration proceeding.

The *Miller* case is currently pending arbitration.

Mitchell v. Home Loan Center, Inc., No. 08-303-RJC (U.S. Dist. Ct., W.D. N.C.). On April 28, 2008, Angela Mitchell filed this putative class action against HLC and LendingTree in the U.S. District Court for the Western District of Oklahoma. As in the *Miller* case (discussed above), the case arises out of LendingTree's April 21, 2008 announcement that unauthorized persons had gained access to non-public information relating to its customers. Plaintiff asserts claims for breach of contract, negligence and negligence per se. Plaintiff purports to represent all similarly situated persons, and seeks damages, attorneys' fees and injunctive relief.

On LendingTree's demand, Plaintiff filed a motion requesting transfer of the lawsuit to the Western District of North Carolina on June 18, 2008. The motion was granted and the lawsuit was transferred to the Western District of North Carolina on June 26, 2008.

On June 11, 2008, the plaintiffs in the *Spinozzi* and *Carson* cases (discussed below) filed a motion with the MDL Panel requesting that it (1) exercise jurisdiction over all actions arising out of LendingTree's April 21, 2008 announcement that unauthorized persons had gained access to non-public information relating to its customers; and (2) consolidate all such cases and transfer them to the U.S. District Court for the Western District of North Carolina. On July 3, 2008, LendingTree joined the *Spinozzi* and *Carson* plaintiffs in support of this motion.

While this motion was pending before the MDL Panel, on July 8, 2008, LendingTree moved to dismiss the lawsuit and compel arbitration. On August 21, 2008, the court granted LendingTree's motion, ordering the Plaintiff to arbitration and staying the litigation pending outcome of the arbitration proceeding.

On October 7, 2008, the MDL Panel granted Plaintiff's motion, transferring all of the related lawsuits to the Western District of North Carolina.

The *Mitchell* case is currently pending arbitration.

Constance Spinozzi v. LendingTree, LLC, No. 3:08-cv-229 (U.S. Dist. Ct., W.D.N.C.). On May 15, 2008, Constance Spinozzi filed this putative class action against LendingTree in the U.S. District Court for the Western District of North Carolina. As in the *Miller* case (discussed above), the case arises out of LendingTree's April 21, 2008 announcement that unauthorized persons had gained access to non-public information relating to its customers. Plaintiff alleges that LendingTree is a "consumer reporting agency" within the meaning of the FCRA and has violated the FCRA by failing to maintain reasonable procedures designed to limit the furnishing of consumer reports. Plaintiff also asserts claims for negligence and breach of implied contract. Plaintiff purports to represent all LendingTree customers affected by the information security breach, and seeks damages, attorneys' fees and injunctive relief.

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On June 11, 2008, Plaintiff Spinozzi and the plaintiff in the *Carson* case (discussed below) filed a motion with the MDL Panel requesting that it (1) exercise jurisdiction over all actions arising out of LendingTree's April 21, 2008 announcement that unauthorized persons had gained access to non-public information relating to its customers; and (2) consolidate all such cases and transfer them to the U.S. District Court for the Western District of North Carolina. On July 3, 2008, LendingTree joined the *Spinozzi* and *Carson* plaintiffs in support of this motion.

While this motion was pending before the MDL Panel, on July 8, 2008, LendingTree moved to dismiss the lawsuit and compel arbitration. On August 21, 2008, the court granted LendingTree's motion, ordering the Plaintiff to arbitration and staying the litigation pending outcome of the arbitration proceeding.

On October 7, 2008, the MDL Panel granted Plaintiff's motion, transferring all of the related lawsuits to the Western District of North Carolina.

The *Spinozzi* case is currently pending arbitration.

Sylvia Carson v. LendingTree, LLC, No. 3:08-cv-247 (U.S. Dist. Ct., W.D.N.C.). On May 30, 2008, Sylvia Carson filed this putative class action against LendingTree in the U.S. District Court for the Western District of North Carolina. As in the *Miller* case (discussed above), the case arises out of LendingTree's April 21, 2008 announcement that unauthorized persons had gained access to non-public information relating to its customers. Plaintiff alleges that LendingTree is a "consumer reporting agency" within the meaning of the FCRA and has violated the FCRA by failing to maintain reasonable procedures designed to limit the furnishing of consumer reports. Plaintiff also asserts claims for negligence and breach of implied contract. Plaintiff purports to represent all LendingTree customers affected by the information security breach, and seeks damages, attorneys' fees and injunctive relief.

On June 11, 2008, Plaintiff Carson and the plaintiff in the *Spinozzi* case (discussed above) filed a motion with the MDL Panel requesting that it (1) exercise jurisdiction over all actions arising out of LendingTree's April 21, 2008 announcement that unauthorized persons had gained access to non-public information relating to its customers; and (2) consolidate all such cases and transfer them to the U.S. District Court for the Western District of North Carolina. On July 3, 2008, LendingTree joined the *Spinozzi* and *Carson* plaintiffs in support of this motion.

While this motion was pending before the MDL Panel, on July 8, 2008, LendingTree moved to dismiss the lawsuit and compel arbitration. On August 21, 2008, the court granted LendingTree's motion, ordering the Plaintiff to arbitration and staying the litigation pending outcome of the arbitration proceeding.

On October 7, 2008, the MDL Panel granted Plaintiff's motion, transferring all of the related lawsuits to the Western District of North Carolina.

The *Carson* case is currently pending arbitration.

Marvin Garcia v. LendingTree, LLC, No. 08 Civ. 4551 (U.S. Dist. Ct., S.D.N.Y.). On July 29, 2008, Marvin Garcia filed this putative class action against LendingTree in the U.S. District Court for the Central District of California. Plaintiff previously had sued LendingTree in the Southern District of New York (*Marvin Garcia v. LendingTree, LLC, No. 08 Civ. 4551 (U.S. Dist. Ct., S.D.N.Y.)*), but on July 28, 2008 Plaintiff voluntarily dismissed that action and subsequently filed the present suit in federal court in California.

As in the *Miller* case (referenced above), the case arises out of LendingTree's April 21, 2008 announcement that unauthorized persons had gained access to non-public information relating to its customers. Plaintiff alleges that LendingTree is a "consumer reporting agency" within the meaning of the FCRA. According to Plaintiff, LendingTree has intentionally violated the FCRA by failing to maintain reasonable procedures designed to limit the furnishing of consumer reports. Plaintiff also alleges LendingTree negligently violated the FCRA by failing to maintain reasonable procedures to

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protect Plaintiff's personal and financial information. Plaintiff also asserts claims against LendingTree, for negligence, breach of implied contract, invasion of privacy, misappropriation of confidential information in violation of California statute, and violation of California's UCL. Plaintiff purports to represent all similarly situated persons, and seeks damages, attorneys' fees and injunctive relief.

On June 11, 2008, the plaintiffs in the *Carson* and *Spinozzi* case (discussed above) filed a motion with the MDL Panel requesting that it (1) exercise jurisdiction over all actions arising out of LendingTree's April 21, 2008 announcement that unauthorized persons had gained access to non-public information relating to its customers; and (2) consolidate all such cases and transfer them to the U.S. District Court for the Western District of North Carolina. On July 3, 2008, LendingTree joined the *Spinozzi* and *Carson* plaintiffs in support of this motion.

On September 12, 2008, LendingTree moved to dismiss the case or transfer it to the Western District of North Carolina in Charlotte to be consolidated with the *Spinozzi*, *Carson* and *Mitchell* cases discussed above. While this motion was pending, on October 7, 2008, the MDL Panel granted the motion before it, transferring the *Garcia* lawsuit to the Western District of North Carolina.

On February 5, 2009, a hearing was held on LendingTree's September 2008 motion to dismiss and to compel arbitration. At the hearing, the court granted LendingTree's motion, ordering the Plaintiff to arbitration and staying the litigation pending outcome of the arbitration proceeding.

The *Garcia* case is currently pending arbitration.

Amy Bercaw v. LendingTree, LLC, No. SACV08-660 (U.S. Dist. Ct., C.D. Cal.). On June 13, 2008, Amy Bercaw, Russell Winsett and Ty Woods filed this putative class action against LendingTree in the U.S. District Court for the Central District of California. As in the *Miller* case (discussed above), the case arises out of LendingTree's April 21, 2008 announcement that unauthorized persons had gained access to non-public information relating to its customers. Plaintiffs allege that LendingTree is a "consumer reporting agency" within the meaning of the FCRA and has violated the FCRA by failing to maintain reasonable procedures designed to limit the furnishing of consumer reports. Plaintiffs also assert claims against LendingTree for negligence, breach of implied contract, invasion of privacy, misappropriation of confidential information in violation of California Civil Code § 17980.89, and violation of the California UCL. Plaintiff purports to represent all LendingTree customers affected by the information security breach, and seeks damages, attorneys' fees and injunctive relief.

On June 11, 2008, the plaintiffs in the *Carson* and *Spinozzi* cases (discussed above) filed a motion with the MDL Panel requesting that it (1) exercise jurisdiction over all actions arising out of LendingTree's April 21, 2008 announcement that unauthorized persons had gained access to non-public information relating to its customers; and (2) consolidate all such cases and transfer them to the U.S. District Court for the Western District of North Carolina. On July 3, 2008, LendingTree joined the *Spinozzi* and *Carson* plaintiffs in support of this motion.

On September 12, 2008, LendingTree moved to dismiss the case or transfer it to the Western District of North Carolina in Charlotte to be consolidated with the *Spinozzi*, *Carson* and *Mitchell* cases discussed above. While this motion was pending, on October 7, 2008, the MDL Panel granted the motion before it, transferring the *Bercaw* lawsuit to the Western District of North Carolina.

On February 5, 2009, a hearing was held on LendingTree's September 2008 motion to dismiss and to compel arbitration. At the hearing, the court granted LendingTree's motion, ordering the Plaintiff to arbitration and staying the litigation pending outcome of the arbitration proceeding.

The *Bercaw* case is currently pending arbitration.

Bradley v. LendingTree, LLC, et al., SACV08-755 (U.S. Dist. Ct. C.D. Cal.). On July 10, 2008, Geraldine Bradley, Joy Paxton-Collis, James Larson and Mark Swearingen filed this putative class action against LendingTree in the U.S. District Court for the Central District of California. As in the *Miller* case (discussed above), the case arises out of LendingTree's April 21, 2008 announcement that

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unauthorized persons had gained access to non-public information relating to its customers. Plaintiffs allege that LendingTree is a "consumer reporting agency" within the meaning of the FCRA. According to Plaintiffs, LendingTree has intentionally violated the FCRA by failing to maintain reasonable procedures designed to limit the furnishing of consumer reports. Plaintiffs also allege LendingTree negligently violated the FCRA by failing to maintain reasonable procedures to protect Plaintiffs' personal and financial information. Plaintiffs also assert claims against LendingTree for negligence, breach of implied contract, invasion of privacy, misappropriation of confidential information in violation of California statute, and violation of California's unfair competition law.

On June 11, 2008, the plaintiffs in the *Carson* and *Spinozzi* cases (discussed above) filed a motion with the MDL Panel requesting that it (1) exercise jurisdiction over all actions arising out of LendingTree's April 21, 2008 announcement that unauthorized persons had gained access to non-public information relating to its customers; and (2) consolidate all such cases and transfer them to the U.S. District Court for the Western District of North Carolina. On July 3, 2008, LendingTree joined the *Spinozzi* and *Carson* plaintiffs in support of this motion.

On September 12, 2008, LendingTree moved to dismiss the case or transfer it to the Western District of North Carolina in Charlotte to be consolidated with the *Spinozzi*, *Carson* and *Mitchell* cases discussed above. While this motion was pending, on October 7, 2008, the MDL Panel granted the motion before it, transferring the *Bradley* lawsuit to the Western District of North Carolina.

On February 5, 2009, a hearing was held on LendingTree's September 2008 motion to dismiss and to compel arbitration. At the hearing, the court granted LendingTree's motion, ordering the Plaintiff to arbitration and staying the litigation pending outcome of the arbitration proceeding.

The *Bradley* case is currently pending arbitration.

Shaver v. LendingTree, LLC, et al., SACV08-755 (U.S. Dist. Ct. C.D. Cal.). On July 10, 2008, Paul Shaver filed this putative class action against LendingTree in the U.S. District Court for the Central District of California. As in the *Miller* case (discussed above), the case arises out of LendingTree's April 21, 2008 announcement that unauthorized persons had gained access to non-public information relating to its customers. Plaintiff alleges that LendingTree is a "consumer reporting agency" within the meaning of the FCRA. According to Plaintiff, LendingTree has intentionally violated the FCRA by failing to maintain reasonable procedures designed to limit the furnishing of consumer reports. Plaintiff also alleges LendingTree negligently violated the FCRA by failing to maintain reasonable procedures to protect Plaintiff's personal and financial information. Plaintiff also asserts claims against LendingTree for negligence, breach of implied contract, invasion of privacy, misappropriation of confidential information in violation of California statute, and violation of California's unfair competition law. Plaintiff purports to represent all similarly situated persons, and seeks damages, attorneys' fees and injunctive relief.

On June 11, 2008, the plaintiffs in the *Carson* and *Spinozzi* cases (discussed above) filed a motion with the MDL Panel requesting that it (1) exercise jurisdiction over all actions arising out of LendingTree's April 21, 2008 announcement that unauthorized persons had gained access to non-public information relating to its customers; and (2) consolidate all such cases and transfer them to the U.S. District Court for the Western District of North Carolina. On July 3, 2008, LendingTree joined the *Spinozzi* and *Carson* plaintiffs in support of this motion.

On September 12, 2008, LendingTree moved to dismiss the case or transfer it to the Western District of North Carolina in Charlotte to be consolidated with the *Spinozzi*, *Carson* and *Mitchell* cases discussed above. While this motion was pending, on October 7, 2008, the MDL Panel granted the motion before it, transferring the *Shaver* lawsuit to the Western District of North Carolina.

On February 5, 2009, a hearing was held on LendingTree's September 2008 motion to dismiss and to compel arbitration. At the hearing, the court granted LendingTree's motion, ordering the Plaintiff to arbitration and staying the litigation pending outcome of the arbitration proceeding.

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The *Shaver* case is currently pending arbitration.

South Carolina Mortgage Broker Litigation

Cases Pending in United States District Court of the District of South Carolina: *Adams v. LendingTree*, No. 2008-CP-04-03021 (S.C. Common Pleas, 10th Judicial Cir. filed Sept. 9, 2008), No. 8:08-cv-03496-HFF (removed Oct. 15, 2008); *Ariail v. LendingTree*, No. 2008-CP-23-5834 (S.C. Common Pleas, 13th Judicial Cir. filed Aug. 1, 2008), No. 6:08-cv-03044-HFF (removed Sept. 3, 2008); *Brackett v. LendingTree*, No. 2008-CP-46-3450 (S.C. Common Pleas, 16th Judicial Cir. filed Sept. 4, 2008), No. 0:08-cv-03504-HFF (removed Oct. 15, 2008); *Clements v. LendingTree*, No. 2008-CP-21-1730 (S.C. Common Pleas, 12th Judicial Cir. filed Sept. 4, 2008), No. 4:08-cv-03508-HFF (removed Oct. 15, 2008); *Gowdy v. LendingTree*, No. 2008-CP-42-4666 (S.C. Common Pleas, 7th Judicial Cir. filed Sept. 4, 2008), No. 7:08-cv-03495-HFF (removed Oct. 15, 2008); *Hembree v. LendingTree*, No. 2008-CP-26-7100 (S.C. Common Pleas, 15th Judicial Cir. filed Sept. 8, 2008), No. 4:08-cv-03499-HFF (removed Oct. 15, 2008); *Hodge v. LendingTree*, No. 2008-CP-13-356 (S.C. Common Pleas, 4th Judicial Cir. filed Sept. 4, 2008), No. 4:08-cv-03507-HFF (removed Oct. 15, 2008); *Morgan v. LendingTree*, No. 2008-CP-02-1529 (S.C. Common Pleas, 2nd Judicial Cir. filed Sept. 8, 2008), No. 1:08-cv-03503-HFF (removed Oct. 15, 2008); *Stone v. LendingTree*, No. 2008-CP-07-03458 (S.C. Common Pleas, 14th Judicial Cir. filed Sept. 8, 2008), No. 9:08-cv-03505-HFF (removed Oct. 15, 2008); *Wilson v. LendingTree*, No. 2008-CP-10-5451 (S.C. Common Pleas, 9th Judicial Cir. filed Sept. 24, 2008), No. 2:08-cv-03677-HFF (removed Oct. 20, 2008).

Cases Pending in South Carolina State Court: *Giese v. LendingTree*, No. 2008-CP-40-6714 (S.C. Common Pleas, 5th Judicial Cir. filed Sept. 17, 2008); *Myers v. LendingTree*, No. 2008-CP-32-03841 (S.C. Common Pleas, 11th Judicial Cir. filed Sept. 17, 2008); *Pascoe v. LendingTree*, No. 2008-CP-09-00136 (S.C. Common Pleas, 1st Judicial Cir. filed Sept. 18, 2008).

These thirteen lawsuits were filed between August 1, 2008 and the end of September 2008 by the State of South Carolina, through its various circuit solicitors, against LendingTree. These lawsuits allege that LendingTree failed to provide certain disclosures required by the South Carolina Registration of Mortgage Loan Brokers Act. The complaint seeks relief on behalf of all residents of various counties in South Carolina who agreed to the terms of use of LendingTree's website. The complaint requests an award of statutory penalties, forfeiture of all fees paid and recovery of actual costs, including attorneys' fees.

Between September 3 and October 15, 2008, LendingTree removed ten of these cases to federal court, and on October 22, 2008 filed motions to dismiss and to stay discovery in those actions. Plaintiffs have filed motions to remand in these same cases and LendingTree is awaiting rulings on those motions from the federal court.

On January 6, 2009, the Supreme Court of South Carolina assigned exclusive jurisdiction over the three remaining cases and any similar cases that might be subsequently filed in or remanded to the state court system to a single circuit judge to promote the effective and expeditious disposition of the litigation. The judge will supervise and coordinate discovery and dispose of all pretrial motions and other pretrial matters including, where appropriate, motions for summary judgment, but not for trial. Prior to the Supreme Court's assignment of the cases to a single judge, on November 3, 2008, LendingTree moved to dismiss the three remaining state court actions and requested a stay of discovery. The Plaintiffs in the three state court cases have moved to compel discovery. The state court judge has not scheduled a hearing on the pending motions.

No trial date is set.

Other Litigation

Boschma v. Home Loan Center, Inc., No. SACV07-613 (U.S. Dist. Ct., C.D. Cal.). On May 25, 2007, Clarence and Shirley Boschma filed this putative class action against HLC in the U.S. District Court

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for the Central District of California. Plaintiffs allege that HLC sold them an option "ARM" (adjustable-rate mortgage) loan but failed to disclose in a clear and conspicuous manner, among other things, that the interest rate was not fixed, that negative amortization could occur and that the loan had a prepayment penalty. Based upon these factual allegations, Plaintiffs assert violations of the federal Truth in Lending Act (the "TILA"), violations of the UCL, breach of contract, breach of the covenant of good faith and fair dealing and violations of California's Consumer Legal Remedies Act (the "CLRA"). Plaintiffs purport to represent a class of all individuals who between June 1, 2003 and May 31, 2007 obtained through HLC an option ARM loan on their primary residence located in California, and seek rescission, damages, attorneys' fees and injunctive relief. On August 10, 2007, Plaintiffs filed a first amended complaint that dropped their CLRA claim.

On September 11, 2007, HLC filed a motion to dismiss and a motion to strike the amended complaint. In its motion to dismiss, HLC argued that Plaintiffs' UCL claim should be dismissed because they fail to properly allege that they or the putative class members suffered injury as a result of HLC's alleged misrepresentations. The motion to dismiss also requests dismissal of Plaintiffs' claims for breach of contract and for breach of the implied covenant of good faith and fair dealing. HLC's motion to strike requests that the court strike Plaintiffs' demand for class-wide rescission under the TILA and demand for disgorgement the UCL. Plaintiffs opposed both motions. On May 27, 2008, the court granted HLC's motion to dismiss, denied HLC's motion to strike as moot, and granted Plaintiffs leave to file a second amended complaint. On June 16, 2008, Plaintiffs filed a second amended complaint, which added a claim for fraudulent omissions. In response, HLC raised the issue that the class representatives had no standing to assert any claims for rescission under the TILA based on the fact that they had since refinanced their loan. On July 24, 2008, Plaintiffs filed a third amended complaint. In response, on September 8, 2008 HLC filed a motion to dismiss and a motion to strike

The parties have agreed not to conduct discovery until after the court rules on HLC's motions. The court has taken the HLC's motions to dismiss and strike under submission. Plaintiffs have not yet filed a motion for class certification. No trial date has been set.

Gaines v. Home Loan Center, Inc., No. SACV08-667 (U.S. Dist. Ct., C.D. Cal.). On June 13, 2008, Joanne Gaines and Johnnie Cave filed this putative class action against HLC and LendingTree in the U.S. District Court for the Central District of California. Plaintiffs allege, in essence, that (1) HLC failed to disclose that the bundled amount for certain loan closing services (called the "TrueCost") that HLC charged to Plaintiffs was greater than HLC's actual costs for those services; (2) HLC's option ARM note failed to tell Plaintiffs that the stated interest rate and payment amounts would change after the first month and that the payment amount stated in the note was not sufficient to pay interest charges, resulting in negative amortization; and (3) HLC misrepresented that Plaintiffs would have to obtain a home equity line of credit in order to obtain a low interest rate on their option ARM loans. Based upon these factual allegations, Plaintiffs assert violations of the federal Racketeer Influenced and Corrupt Organizations Act, the TILA, the California UCL, California Business and Professions Code § 17500, the CLRA, breach of contract, breach of the implied covenant of good faith and fair dealing, unjust enrichment, conversion, and money had and received.

Plaintiffs purport to represent all HLC customers who, since December 14, 2004 (1) were charged by HLC and paid an amount that exceeded HLC's actual costs for those services; and/or (2) entered into option ARM loan agreements with HLC; and/or (3) were misled into taking out a home equity line of credit along with their option ARM mortgage. Plaintiffs seek restitution, disgorgement, damages, attorneys' fees and injunctive relief.

On July 28, 2008, HLC filed a motion to dismiss. The court issued an order taking HLC's motion to dismiss under submission and cancelled a scheduled October 6, 2008 hearing. HLC has objected to served discovery and awaits the court's scheduling order.

Plaintiffs have not yet filed a motion for class certification. No trial date has been set.

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Schnee v. LendingTree, LLC and Home Loan Center, Inc., No. 06CC00211 (Cal. Super. Ct., Orange Cty.). On October 11, 2006, four individual plaintiffs filed this putative class action against LendingTree and HLC in the California Superior Court for Orange County. Plaintiffs allege that they used the LendingTree.com website to find potential lenders and without their knowledge were referred to LendingTree's direct lender, HLC; that Lending Tree, LLC and HLC did not adequately disclose the relationship between them; and that HLC charged Plaintiffs higher rates and fees than they otherwise would have been charged. Based upon these allegations, Plaintiffs assert that LendingTree and HLC violated the California UCL, California Business and Professions Code § 17500, and the CLRA. Plaintiffs purport to represent a nationwide class of consumers who sought lender referrals from LendingTree and obtained loans from HLC since December 1, 2004. Plaintiffs seek damages, restitution, attorneys' fees and injunctive relief.

On November 27, 2006, LendingTree and HLC filed demurrers and a motion to strike portions of the complaint, arguing, among other things, that the complaint did not adequately allege that the named class representatives read and relied upon the allegedly deceptive representations on LendingTree's website. On January 25, 2007, the court sustained the demurrers and granted the motion to strike on the reliance issue, but otherwise overruled the demurrers and denied the motion to strike. On February 14, 2007, Plaintiffs filed their first amended complaint.

On March 12, 2007, LendingTree and HLC filed demurrers and a motion to strike portions of the first amended complaint. On May 17, 2007, the court overruled the demurrers and denied the motion to strike. On June 11, 2007, LendingTree and HLC filed an answer to the first amended complaint.

On July 28, 2008, LendingTree and HLC filed a motion for summary judgment. On September 2, 2008, a Second Amended Complaint was filed, adding a new named plaintiff and naming Tree.com, Inc. and LendingTree's former parent, IAC/InterActiveCorp, as defendants. On November 19, 2008 a Third Amended complaint was filed and the Answer was filed December 22, 2008.

The case remains in discovery. Plaintiffs have not yet filed a motion for class certification. No trial date has been set.

Mortgage Store, Inc. v. LendingTree Loans d/b/a Home Loan Center, Inc., No. 06CC00250 (Cal. Super. Ct., Orange Cty.). On November 30, 2006, The Mortgage Store, Inc. and Castlevue Home Loans, Inc. filed this putative class action against HLC in the California Superior Court for Orange County. Plaintiffs, two former Network Lenders, allege that HLC interfered with LendingTree's contracts with Network Lenders by taking referrals from LendingTree. The complaint is largely based upon the factual allegations made in the *Schnee* complaint (described above). Based upon these factual allegations, Plaintiffs assert claims for intentional interference with contractual relations, intentional interference with prospective economic advantage, and violation of the UCL and California Business and Professions Code § 17500. Plaintiffs purport to represent all Network Lenders from December 14, 2004 to date, and seek damages, restitution, attorneys' fees, and punitive damages.

On February 8, 2007, HLC filed a demurrer and a motion to strike portions of Plaintiffs' complaint. On March 15, 2007, the court overruled the demurrer but granted the motion to strike in part, striking the portion of the complaint that sought restitution and disgorgement of all profits made by HLC from December 14, 2004 to date.

In September, 2008 plaintiffs filed a motion to have the discovery in this action consolidated with that in the *Schnee v. LendingTree, LLC*. The motion was denied.

The case remains in discovery. Plaintiffs have not yet filed a motion for class certification. No trial date has been set.

Item 4. Submission of Matters to a Vote of Security Holders

There were no matters submitted to a vote of the Company's security holders during the fourth quarter of 2008.

Table of Contents**PART II****Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities****Market for Registrant's Common Equity and Related Stockholder Matters**

Tree.com common stock is quoted on The Nasdaq Stock Market, or "NASDAQ," under the ticker symbol "TREE." The table below sets forth, for the calendar periods indicated, the high and low sales prices per share for Tree.com common stock as reported on NASDAQ, which began trading on August 21, 2008.

	High	Low
Year Ended December 31, 2008		
Fourth Quarter	\$5.80	\$1.42
Third Quarter	9.03	3.57

The Company has never declared or paid any cash dividends on its common stock. The Company does not intend to declare or pay any cash dividends on its common stock in the foreseeable future. The declaration, payment and amount of future cash dividends, if any, will be at the discretion of the board of directors.

As of February 24, 2009, there were approximately 1,330 holders of record of the Company's common stock and the closing price of Tree.com common stock was \$4.20. Because many of the outstanding shares of Tree.com common stock are held by brokers and other institutions on behalf of shareholders, Tree.com is not able to estimate the total number of beneficial shareholders represented by these record holders.

During the quarter ended December 31, 2008, the Company did not issue or sell any shares of its common stock or other equity securities pursuant to unregistered transactions.

On February 9, 2009, the Chairman and CEO agreed to purchase 935,000 newly issued shares of unregistered restricted common stock from the company at \$3.91 per share, based on the Friday, February 6, 2009 closing share price. The shares of common stock have not been registered under the Securities Act of 1933 and may not be offered or sold in the United States absent registration or an applicable exemption from registration requirements.

Issuer Purchases of Equity Securities

The Company did not purchase any shares of its common stock during the quarter ended December 31, 2008. The Company has not announced any repurchase authorizations.

Table of Contents**Item 6. Selected Financial Data****SELECTED HISTORICAL FINANCIAL DATA**

The following table presents summary selected historical consolidated financial information for Tree.com, Inc. This data was derived, in part, from the historical consolidated financial statements of Tree.com included elsewhere in this document and reflects the operations and financial position of Tree.com at the dates and for the periods indicated. The information in this table should be read in conjunction with the consolidated financial statements and accompanying notes and other financial data pertaining to Tree.com included herein. However, this information does not necessarily reflect what the historical financial position and results of operations of Tree.com for periods prior to the spin-off would have been had Tree.com been a stand-alone company during the periods presented.

	Year Ended December 31,				2004(3)
	2008(1)	2007(2)	2006	2005	(unaudited)
(In thousands, except per share amounts)					
Statement of Operations Data:					
Revenue	\$ 228,572	\$ 346,378	\$ 476,478	\$ 421,355	\$ 189,783
Operating (loss) income	(215,030)	(540,440)	14,171	19,254	(12,067)
Net (loss) income	(202,276)	(550,402)	8,693	5,851	(9,187)
Net (loss) income per share	(21.59)	(59.00)	0.93	0.63	(0.98)

	December 31,				2004(3)
	2008	2007	2006	2005	(unaudited)
Balance Sheet Data (end of period):					
Working capital (deficit)	\$ 74,772	\$ (7,380)	\$ 79,463	\$ 74,754	\$ 35,784
Total assets	284,083	443,587	1,261,045	1,326,961	1,074,896
Long-term obligations, net of current maturities			19,347	28,894	36,755
Shareholders' equity	138,128	214,624	773,453	766,486	753,674

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- (1) Net loss includes impairment charges of \$103.6 million related to the write-down of Tree.com's Lending segment goodwill and an indefinite-lived intangible asset and \$60.8 million related to the write-down of Tree.com's Real Estate segment goodwill.
- (2) Net loss includes impairment charges of \$475.7 million related to the write-down of Tree.com's Lending segment goodwill and intangible assets.
- (3) Includes the results of Home Loan Center since its acquisition on December 14, 2004.

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categories of lending services declined \$60.8 million, or 37%, due primarily to fewer consumer loan requests transmitted to and loans closed on the lending networks. Revenue from all home loan offerings declined with home equity loans, purchase mortgage and refinance mortgage revenue declining 74%, 31% and 27%, respectively.

The dollar value of loans closed by network lenders and directly by LendingTree Loans in 2008 decreased 40% to \$15.0 billion. This includes refinance mortgages of \$8.5 billion, purchase mortgages of \$4.5 billion and home equity loans of \$1.6 billion. The dollar value of loans closed by network lenders and directly by LendingTree Loans in 2007 was \$24.9 billion, including refinance mortgages of \$13.0 billion, purchase mortgages of \$6.9 billion and home equity loans of \$4.2 billion.

Lending revenue in 2007 decreased \$125.0 million, or 30%, from the same period in 2006. Revenue generated from the origination and sale of loans in the secondary market declined \$91.2 million, or 41%. The primary drivers of the change are fewer loans sold into the secondary market, lower revenue per loan sold, fewer loans closed on the lending networks and an increase of \$13.5 million in the liability for losses on previously sold loans. Lenders' narrowing focus on traditional mortgages in reaction to changes in the mortgage market contributed to lower close rates, a shift to lower margin products, and lower revenue per loan sold at LendingTree Loans. Revenue from all other categories of lending services declined \$33.8 million, or 17%, primarily due to fewer consumer loan requests transmitted to and loans closed on the lending networks. Revenue from home equity loans fell 58% due in part to an exit from certain home equity loans at LendingTree Loans and as a result of deteriorating market conditions. Additionally, purchase mortgage revenue and refinance mortgage revenue declined 21% and 16%, respectively.

The dollar value of loans closed by network lenders and directly by LendingTree Loans in 2007 decreased 23% from 2006 to \$24.9 billion. This includes refinance mortgages of \$13.0 billion, purchase mortgages of \$6.9 billion and home equity loans of \$4.2 billion. The dollar value of closed loans in 2006 was \$32.1 billion, including refinance mortgages of \$16.9 billion, purchase mortgages of \$8.3 billion and home equity loans of \$5.9 billion.

LendingTree Loans originates mortgage loans on property located throughout the United States, with no one location representing more than 10% of Tree.com's consolidated revenue for any periods presented. Revenue from loans originated for property in California and Florida in the aggregate totaled approximately 7%, 10% and 14% of Tree.com's consolidated revenue for the year ended December 31, 2008, 2007 and 2006, respectively.

Real Estate revenue in 2008 decreased \$15.8 million, or 31%, principally due to a \$14.7 million decrease related to the Real Estate builder and broker networks, which experienced decreased closings year over year, as well as a decrease of \$6.3 million due to the absence of revenue from the agent network business which ceased operations in December 2007. Partially offsetting the revenue decrease was an increase of \$5.0 million in revenue from RealEstate.com, REALTORS®, which increased closings by 45%. RealEstate.com, REALTORS® operates in twenty markets in 2008, compared to ten markets in 2007, and has approximately 1,200 agents in 2008, compared to approximately 800 agents in 2007.

Real Estate revenue in 2007 decreased \$5.1 million, or 9%, principally due to a \$13.0 million decrease related to the Real Estate builder and broker networks, which experienced decreased closings year over year, as well as a decrease of \$1.9 million due to the agent network business winding down and ceasing operations in December 2007. Partially offsetting the revenue decrease was an increase of \$9.6 million in revenue from RealEstate.com, REALTORS®, which increased closings by 190%. RealEstate.com, REALTORS® began closing transactions in the first quarter of 2006.

Table of Contents*Cost of revenue*

	Year Ended December 31,				
	2008	Change	2007	Change	2006
Lending	\$43,051	(9)%	\$47,264	0%	\$47,412
Real Estate	21,342	(17)%	25,850	0%	25,805
Cost of revenue	\$64,393	(12)%	\$73,114	0%	\$73,217
As a percentage of total revenue	28%		21%		15%
Gross margin %	72%		79%		85%

	Year Ended December 31,				
	2008	Change	2007	Change	2006
Cost of revenue Lending	\$43,051	(9)%	\$47,264	0%	\$47,412
As a percentage of Lending revenue	22%		16%		11%
Lending gross margin	78%		84%		89%
Cost of revenue Real Estate	\$21,342	(17)%	\$25,850	0%	\$25,805
As a percentage of Real Estate revenue	59%		50%		45%
Real Estate gross margin	41%		50%		55%

Cost of revenue consists primarily of costs associated with loan originations, compensation and other employee-related costs (including stock-based compensation) related to customer call centers and real estate network support staff, as well as credit scoring fees, consumer incentive costs, real estate agent commissions and website network hosting and server fees.

Cost of revenue in 2008 decreased \$8.7 million from 2007 primarily due to decreases of \$6.7 million in consumer incentive rebates related to decreased closings at the Lending network and the Real Estate builder and broker network businesses, \$2.5 million in compensation and other employee-related costs (net of an increase of \$0.6 million in non-cash compensation), \$1.3 million in credit scoring and licensing fees, and \$3.5 million in direct costs associated with the settlement services business. The decrease in compensation and other employee-related costs is primarily due to reduced personnel costs associated with Tree.com's customer call center, settlement services operation and portions of its loan processing department.

Offsetting these decreases in cost of revenue was an increase of \$4.1 million in costs associated with loan originations. This increase in 2008 is related to the impact of Tree.com's adoption of Statement of Financial Accounting Standards ("SFAS") No. 159, "The Fair Value Option for Financial Assets and Financial Liabilities Including an amendment of FASB Statement No. 115" ("SFAS 159"). Upon adoption of SFAS 159, Tree.com elected to account for all loans held for sale originated after January 1, 2008 at fair value. Electing the fair value option requires loan origination fees and costs to be recorded in earnings as incurred instead of being deferred until the loan is sold as in prior year periods. In 2008, all loan origination costs are recognized in cost of revenue. Prior to 2008, Tree.com applied the provisions of SFAS 91, "Accounting for Nonrefundable Fees and Costs Associated with Originating or Acquiring Loans and Initial Direct Costs of Leases", effectively deferring loan origination fees and costs until the underlying loan was sold. Upon sale of the loan, the origination fees and costs were recognized as a component of the gain on sale of the loan in revenue.

Cost of revenue in 2008 also increased as a percentage of revenue due to an increase of \$2.2 million in commission expense primarily related to the increase in closings at the company-owned brokerage business.

Cost of revenue in 2007 was relatively unchanged from 2006 despite the significant revenue decline. The increase in cost of revenue as a percentage of total revenue is principally due to the

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reduced revenue discussed above, and a \$5.5 million increase in costs associated with unsuccessful loan originations. If a loan funds, these costs were deferred until the loan was sold to an investor and are included in revenue on a net basis. However, costs associated with all unsuccessful loan origination attempts were expensed as incurred. This increase was partially offset by a \$3.5 million decrease in compensation and other employee-related costs as Tree.com reduced its personnel costs associated with its customer call center, settlement services operation and portions of its loan processing department, and a \$1.4 million decrease in credit scoring and licensing fees.

Cost of revenue in 2007 also increased as a percentage of revenue due to an increase of \$5.1 million in commission expense primarily related to the increase in closings at the company-owned brokerage business, partially offset by a decrease of \$4.0 million in consumer incentive rebates related to decreased closings at the Lending network and the Real Estate builder and broker network businesses.

Selling and marketing expense

	Year Ended December 31,				
	2008	% Change	2007	% Change	2006
Lending	\$ 101,993	(39)%	\$ 168,436	(14)%	\$ 195,245
Real Estate	7,260	(62)%	19,176	(19)%	23,665
Selling and marketing expense	\$ 109,253	(42)%	\$ 187,612	(14)%	\$ 218,910
As a percentage of total revenue	48%		54%		46%

		Year Ended December 31,				
		2008	% Change	2007	% Change	2006
Selling and marketing expense	Lending	\$ 101,993	(39)%	\$ 168,436	(14)%	\$ 195,245
As a percentage of Lending revenue		53%		57%		47%
Selling and marketing expense	Real Estate	\$ 7,260	(62)%	\$ 19,176	(19)%	\$ 23,665
As a percentage of Real Estate revenue		20%		37%		42%

Selling and marketing expense consists primarily of advertising and promotional expenditures, fees paid to lead sources and compensation and other employee-related costs (including stock-based compensation) for personnel engaged in the sales function and loan officers. Advertising and promotional expenditures primarily include online marketing, as well as television, print and radio spending. Advertising production costs are expensed in the period the related ad is first run.

Selling and marketing expense in 2008 decreased \$78.4 million from 2007 primarily due to a decrease of \$80.6 million in advertising and promotional expenditures. In 2008, total expenses for the major advertising categories of online, broadcast and print were \$56.4 million, \$24.8 million and \$3.8 million, respectively. These represent decreases from 2007 of \$48.3 million, \$12.9 million and \$12.6 million, respectively. Tree.com anticipates that it will continue to adjust selling and marketing expenditures generally in relation to revenue producing opportunities and that selling and marketing will continue to represent a high percentage of revenue as it continues to promote its brands both online and offline.

Selling and marketing expense in 2007 decreased \$31.3 million from 2006 primarily due to a decrease of \$32.5 million in advertising and promotional expenditures. In 2007, total expenses for the major advertising categories of online, broadcast and print were \$104.7 million, \$37.7 million and \$16.4 million, respectively. These represent decreases from 2006 of \$10.0 million, \$7.0 million and \$13.1 million, respectively. The increase in selling and marketing expense as a percentage of revenue is due to decreased conversions of consumer leads into closed transactions.

Table of Contents*General and administrative expense*

	Year Ended December 31,				
	2008	% Change	2007	% Change	2006
Lending	\$55,798	(30)%	\$79,172	(18)%	\$96,888
Real Estate	19,407	(3)%	20,072	(10)%	22,396
General and administrative expense	\$75,205	(24)%	\$99,244	(17)%	\$119,284
As a percentage of total revenue	33%		29%		25%

	Year Ended December 31,				
	2008	% Change	2007	% Change	2006
General and administrative expense Lending	\$55,798	(30)%	\$79,172	(18)%	\$96,888
As a percentage of Lending revenue	29%		27%		23%
General and administrative expense Real Estate	\$19,407	(3)%	\$20,072	(10)%	\$22,396
As a percentage of Real Estate revenue	54%		39%		39%

General and administrative expense consists primarily of compensation and other employee-related costs (including stock-based compensation) for personnel engaged in finance, legal, tax, corporate information technology, human resources and executive management functions, as well as facilities and infrastructure costs and fees for professional services.

General and administrative expense in 2008 decreased \$24.0 million from 2007. As a result of restructuring activities that occurred in 2008 and 2007, compensation and other employee-related costs, excluding non-cash compensation, decreased \$21.1 million and facilities costs decreased \$3.3 million. Other significant decreases during 2008 include \$1.6 million in litigation expense and \$1.3 million in bad debt expense, partially offset by a charge of \$1.0 million associated with legal and regulatory costs.

General and administrative expense includes non-cash compensation expense of \$9.5 million in 2008 compared with \$2.4 million in 2007. Non-cash compensation in 2008 includes a \$5.5 million charge due to the modification of equity-based awards related to the spin-off, which consists of the accelerated vesting of certain restricted stock units and the modification of vested stock options.

As of December 31, 2008, there was approximately \$5.8 million and \$4.0 million of unrecognized compensation cost, net of estimated forfeitures, related to stock options and restricted stock units and restricted stock, respectively. These costs are expected to be recognized over a weighted-average period of approximately 4.3 years for stock options and 2.0 years for restricted stock units and restricted stock.

General and administrative expense in 2007 decreased \$20.0 million from 2006 primarily due to a decrease of \$13.2 million in compensation and other employee-related costs, due principally to a reduction in workforce, and a decrease of \$2.5 million in professional fees.

Product development

	Year Ended December 31,				
	2008	% Change	2007	% Change	2006
Lending	\$4,442	(54)%	\$9,720	(6)%	\$10,301
Real Estate	2,245	(57)%	5,271	8%	4,867
Product development expense	\$6,687	(55)%	\$14,991	(1)%	\$15,168
As a percentage of total revenue	3%		4%		3%

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	Year Ended December 31,				
	2008	Change	2007	Change	2006
Product development Lending	\$4,442	(54)%	\$9,720	(6)%	\$10,301
As a percentage of Lending revenue	2%		3%		2%
Product development Real Estate	\$2,245	(57)%	\$5,271	8%	\$4,867
As a percentage of Real Estate revenue	6%		10%		9%

Product development expense consists primarily of compensation and other employee-related costs (including stock-based compensation) for personnel engaged in product development, which include costs related to the design, development, testing and enhancement of technology that are not capitalized.

Product development expense in 2008 decreased \$8.3 million from 2007 due to decreased compensation and other employee-related costs associated with reductions in workforce that occurred in 2008 and 2007.

Product development expense in 2007 decreased \$0.2 million from 2006 primarily due to decreased compensation and other employee-related costs.

Restructuring expense

	Year Ended December 31,				
	2008	Change	2007	Change	2006
Lending	\$5,279	(76)%	\$21,567	N/A	\$
Real Estate	425	(67)%	1,300	N/A	
Restructuring expense	\$5,704	(75)%	\$22,867	N/A	\$
As a percentage of total revenue	2%		7%		

	Year Ended December 31,				
	2008	Change	2007	Change	2006
Restructuring expense Lending	\$5,279	(76)%	\$21,567	N/A	\$
As a percentage of Lending revenue	3%		7%		
Restructuring expense Real Estate	\$425	(67)%	\$1,300	N/A	\$
As a percentage of Real Estate revenue	1%		3%		

In response to adverse developments in mortgage and real estate market conditions, Tree.com recorded restructuring expense of \$5.7 million in 2008 compared to \$22.9 million in 2007. The restructuring expense in 2008 includes \$2.0 million in employee termination costs associated with reductions in workforce, \$2.6 million for liabilities associated with exiting facilities and \$1.0 million for write-offs of fixed assets. The restructuring expense in 2007 includes \$9.3 million in employee termination costs associated with reductions in workforce, \$5.0 million for liabilities associated with exiting facilities and \$8.0 million for write-offs of fixed assets and other projects in progress and \$0.6 million for other items. As a part of these restructurings, positions across all departments and locations of Tree.com's business were eliminated, however the Lending restructuring expenses principally related to the mortgage origination operations of LendingTree Loans.

Table of Contents**Earnings Before Interest, Taxes, Depreciation and Amortization**

Earnings Before Interest, Taxes, Depreciation and Amortization ("EBITDA") is a non-GAAP measure and is defined in "Tree.com's Principles of Financial Reporting".

	Year Ended December 31,				
	2008	% Change	2007	% Change	2006
Lending	\$ (10,550)	28%	\$ (14,618)	NM	\$ 71,181
Real Estate	(10,883)	42%	(18,906)	1%	(19,105)
EBITDA	\$ (21,433)	36%	\$ (33,524)	NM	\$ 52,076
As a percentage of total revenue	(9)%		(10)%		11%

	Year Ended December 31,				
	2008	% Change	2007	% Change	2006
EBITDA Lending	\$ (10,550)	28%	\$ (14,618)	NM	\$ 71,181
As a percentage of Lending revenue	(5)%		(5)%		17%
EBITDA Real Estate	(10,833)	42%	(18,906)	1%	(19,105)
As a percentage of Real Estate revenue	(30)%		(37)%		(34)%

EBITDA loss in 2008 improved \$12.1 million to \$21.4 million. However, 2007 EBITDA reflects \$15.0 million of proceeds from a litigation settlement, which are shown as a reduction in operating expenses. In 2007, EBITDA loss was further impacted by a \$19.3 million provision for loan losses, compared to \$0.8 million in 2008. Adjusting for the litigation proceeds, EBITDA improved \$27.1 million in 2008, reflecting costs decreasing more rapidly than revenue in 2008 principally due to the marketing reductions and restructuring activities noted above.

EBITDA in 2007 decreased \$85.6 million to a loss of \$33.5 million, declining at a faster rate than revenue due to higher costs per loan sold resulting from a shift to lower margin products, lower close rates and stricter underwriting criteria, and \$22.9 million in restructuring costs, due in part to a reduction in workforce, partially offset by a decrease of \$31.3 million in selling and marketing expenses. EBITDA was adversely impacted by a \$19.3 million provision for loan losses in 2007, compared to \$6.6 million in 2006. The 2007 provision reflected the increased losses Tree.com experienced related to obligations to investors with respect to previously sold loans and the projection of higher loss ratios in future periods related to these loans. EBITDA benefited by \$12.9 million due to the net impact of a favorable legal settlement and an increase in certain legal reserves.

Operating (loss) income

	Year Ended December 31,				
	2008	% Change	2007	% Change	2006
Lending	\$ (133,340)	74%	\$ (512,584)	NM	\$ 44,091
Real Estate	(81,690)	(193)%	(27,856)	7%	(29,920)
Operating (loss) income	\$ (215,030)	60%	\$ (540,440)	NM	\$ 14,171
As a percentage of total revenue	(94)%		(156)%		3%

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		Year Ended December 31,				
		%		%		
		2008	Change	2007	Change	2006
Operating (loss) income	Lending	\$(133,340)	74%	\$(512,584)	NM	\$ 44,091
	As a percentage of Lending revenue	(69)%		(174)%		11%
Operating loss	Real Estate	(81,690)	(193)%	\$(27,856)	7%	\$(29,920)
	As a percentage of Real Estate revenue	(227)%		(54)%		(53)%

Operating loss in 2008 improved \$325.4 million to a loss of \$215.0 million. In addition to the items noted above, the other primary drivers of the change relate to impairment charges on goodwill and an indefinite-lived intangible asset. In 2008, Tree.com recorded impairment charges of \$131.0 million and \$33.4 million related to goodwill and an indefinite-lived intangible asset, respectively. The charges associated with Lending were \$70.2 million related to goodwill and \$33.4 million related to an indefinite-lived intangible asset. The charge related to Real Estate was a goodwill impairment charge of \$60.8 million. In 2007, Tree.com recorded impairment charges for Lending of \$459.5 million and \$16.2 million related to goodwill and an indefinite-lived intangible asset, respectively.

These impairments resulted from Tree.com's most recent reassessments of the likely future profitability of Lending and Real Estate in light of the persistent adverse mortgage and real estate market conditions and the operational strategies Tree.com has undertaken in response to these market realities. These adverse conditions include, among others, constrained liquidity, lender focus on low margin conforming loans, uncertainty as to the eventuality and timing of the return of higher margin mortgage offerings, the decline in real estate values and a high rate of delinquency for existing mortgages. Tree.com updated its assessment of mortgage and real estate market conditions and Tree.com's responsive operational strategies during the fourth quarter of 2008 and quantified these considerations in Tree.com's future forecasted results.

Continued adverse market conditions may give rise to continued operating losses and require additional restructuring of Tree.com's operations and could give rise to additional restructuring charges and additional impairment charges.

Operating income in 2007 decreased \$554.6 million to a loss of \$540.4 million, resulting primarily from a goodwill impairment charge of \$459.5 million which was recorded in the fourth quarter of 2007. In addition, an impairment charge of \$16.2 million was recorded in the fourth quarter of 2007 in connection with the write-down of certain intangible assets. These impairments were identified in connection with Tree.com's annual impairment assessment which is performed as of October 1st. Also contributing to the increase in operating loss was the decrease in EBITDA described above and an increase in non-cash compensation expense.

Income tax provision

For the years ended December 31, 2008, 2007 and 2006, Tree.com recorded a tax benefit (provision) of \$13.3 million and \$(10.2) million and \$(5.0) million, respectively, which represents effective tax rates of 6.2%, 1.9% and 36.6%, respectively. The 2008 tax rate is lower than the federal statutory rate of 35% due principally to non-deductible impairment charges and an increase in the valuation allowance on deferred tax assets. The 2007 tax rate is lower than the federal statutory rate of 35% due principally to non-deductible impairment charges and an increase in the valuation allowance on deferred tax assets. The 2006 tax rate is higher than the federal statutory rate of 35% due principally to the impact of state taxes.

As of December 31, 2008 and December 31, 2007, the unrecognized tax benefits, including interest, were \$2.3 million and \$5.8 million, respectively. Included in unrecognized tax benefits is approximately \$1.0 million for tax positions included in IAC's consolidated tax return filings that remain a liability of IAC after the spin-off. Also included in unrecognized tax benefits at December 31,

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2008 is approximately \$0.5 million for tax positions which the ultimate deductibility is highly certain but for which there is uncertainty about the timing of such deductibility.

Tree.com recognizes interest and, if applicable, penalties related to unrecognized tax benefits in income tax expense. Included in income tax expense for 2008 is \$0.1 million for interest on unrecognized tax benefits. At December 31, 2008 and December 31, 2007, Tree.com has accrued \$0.1 million and \$1.4 million (retained by IAC) for the payment of interest, respectively. There are no material accruals for penalties.

By virtue of previously filed separate company and consolidated tax returns with IAC, Tree.com is routinely under audit by federal, state and local authorities in the area of income tax. These audits include questioning the timing and the amount of deductions and the allocation of income among various tax jurisdictions. Income taxes payable include amounts considered sufficient to pay assessments that may result from examination of prior year returns; however, the amount paid upon resolution of issues raised may differ from the amount provided. Differences between the reserves for tax contingencies and the amounts owed by Tree.com are recorded in the period they become known.

Tree.com believes that it is reasonably possible that its unrecognized tax benefits could decrease by approximately \$0.5 million within twelve months of the current reporting date due to the reversal of deductible temporary differences which will result in a corresponding increase in net deferred tax liabilities. An estimate of other changes in unrecognized tax benefits cannot be made, but are not expected to be significant.

Under the terms of the tax sharing agreement, which was executed in connection with the spin-off, IAC generally retains the liability related to federal and state returns filed on a consolidated or unitary basis for all periods prior to the spin-off.

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FINANCIAL POSITION, LIQUIDITY AND CAPITAL RESOURCES

As of December 31, 2008, Tree.com had \$88.8 million of cash and cash equivalents and restricted cash and cash equivalents.

Net cash used in operating activities was \$41.9 million in the year ended December 31, 2008, compared to net cash provided by operating activities of \$233.0 million in the same period in 2007. The decrease of \$274.9 million is primarily due to a \$280.5 million decrease in net proceeds and gains from the sales of loans held for sale.

Net cash used in investing activities in the year ended December 31, 2008 of \$18.8 million primarily resulted from the payment of contingent purchase price consideration associated with the Home Loan Center, Inc. acquisition of \$14.5 million and capital expenditures of \$4.1 million. Net cash used in investing activities in the same period in 2007 of \$10.9 million resulted from the payment of contingent consideration associated with certain acquisitions of \$1.6 million and capital expenditures of \$9.4 million.

Net cash provided by financing activities in 2008 of \$88.4 million was primarily due to capital contributions of \$111.5 million from IAC in connection with the spin-off, partially offset by payments on notes payable and capital lease obligations of \$20.0 million and net repayments of warehouse lines of credit of \$3.2 million. Net cash used in financing activities in 2007 of \$275.6 million was primarily due to net repayments under warehouse lines of credit of \$259.0 million and payments on notes payable and capital lease obligations of \$11.7 million. The net repayments under warehouse lines of credit in 2008 and 2007 is related to the decrease in loans held for sale at LendingTree Loans, which is included within cash flows from operating activities.

As of December 31, 2008, LendingTree Loans had committed lines of credit totaling \$100 million, of which \$50 million is scheduled to expire on December 29, 2009, and another \$50 million was scheduled to expire on January 24, 2009, and an uncommitted line of credit of \$150 million. The \$50 million committed line of credit that was scheduled to expire on January 24, 2009 and the \$150 million uncommitted line were provided by the same lender. The \$50 million committed line of credit that was scheduled to expire on January 24, 2009 has been extended to April 30, 2009 while both parties work to finalize terms of an annual renewal, and, at the time of extension, the size of the \$150 million uncommitted line was reduced to \$50 million. The interest rate under the \$50 million committed line that expires on December 29, 2009 is 30-day LIBOR plus 125 basis points. The interest rate under the \$50 million uncommitted line of credit that was extended to April 30, 2009 is 30-day LIBOR plus 225 basis points. The interest rate under the \$50 million uncommitted line of credit is 30-day LIBOR plus 150 basis points. The \$50 million committed line of credit expiring on April 30, 2009 can be cancelled at the option of the lender without default upon sixty days notice. Under the terms of the committed lines of credit, LendingTree Loans is required to maintain various financial and other covenants. These financial covenants include, but are not limited to, maintaining (i) minimum levels of tangible net worth, cash on hand with a certain lender and liquid assets, (ii) a maximum ratio of total liabilities to net worth and (iii) pre-tax net income requirements on a quarterly basis. During the year ended December 31, 2008, LendingTree Loans was not in compliance with the quarterly pre-tax net income covenant for the third quarter of 2008. LendingTree Loans received a waiver of this covenant breach on October 28, 2008.

Borrowings under these lines of credit are used to fund, and are secured by, consumer residential loans that are held for sale. Loans under these lines of credit are repaid from proceeds from the sales of loans held for sale by LendingTree Loans. At December 31, 2008, there was \$76.2 million outstanding under the committed lines of credit. Borrowings under all of LendingTree Loans' lines of credit are non-recourse to Tree.com.

Tree.com anticipates that it will need to make capital and other expenditures in connection with the development and expansion of its overall operations.

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Tree.com has considered its anticipated operating cash flows in 2009, cash and cash equivalents, current borrowing capacity under lines of credit, its capitalization subsequent to the spin-off and access to capital markets, subject to restrictions in the tax sharing agreement, and believes that these are sufficient to fund its operating needs, including debt requirements, commitments and contingencies and capital and investing commitments for the foreseeable future. In connection with the completion of the spin-off, intercompany payable balances were extinguished and IAC transferred to Tree.com an amount of cash that is sufficient for its initial capitalization. LendingTree Loans is highly dependent on the availability of credit to finance its operations. Its inability to renew or replace existing facilities upon expiration or termination, which could be impacted by continuing disruptions in the credit market, would adversely impact its results of operations and financial condition.

CONTRACTUAL OBLIGATIONS AND COMMERCIAL COMMITMENTS

Contractual Obligations as of December 31, 2008	Total	Payments Due by Period			
		Less Than 1 Year	1 3 Years	3 5 Years	More Than 5 Years
		(In thousands)			
Short-term borrowings	\$ 76,186	\$ 76,186	\$	\$	\$
Purchase obligations(a)	11,698	11,698			
Letters of credit and surety bonds(b)	7,732	7,707	25		
Operating leases	23,357	7,364	7,101	5,250	3,642
Total contractual cash obligations	\$118,973	\$102,955	\$7,126	\$5,250	\$3,642

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- (a) The purchase obligations primarily relate to marketing event contracts in 2009.
- (b) State licensing requirements for both mortgage and real estate operations require the Company to post surety bonds in order to conduct operations in those states.

Seasonality

Lending and Real Estate revenue is subject to the cyclical and seasonal trends of the U.S. housing market. Home sales typically rise during the spring and summer months and decline during the fall and winter months. Refinancing and home equity activity is principally driven by mortgage interest rates as well as real estate values. The broader cyclical trends in the mortgage and real estate markets have upset the usual seasonal trends.

New Accounting Pronouncements

Refer to Note 2 to the consolidated financial statements for a description of recent accounting pronouncements.

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TREE.COM'S PRINCIPLES OF FINANCIAL REPORTING

Tree.com reports Earnings Before Interest, Taxes, Depreciation and Amortization ("EBITDA") as a supplemental measure to GAAP. This measure is one of the primary metrics by which Tree.com evaluates the performance of its businesses, on which its internal budgets are based and by which management is compensated. Tree.com believes that investors should have access to the same set of tools that it uses in analyzing its results. This non-GAAP measure should be considered in addition to results prepared in accordance with GAAP, but should not be considered a substitute for or superior to GAAP results. Tree.com provides and encourages investors to examine the reconciling adjustments between the GAAP and non-GAAP measure which are discussed below.

Definition of Tree.com's Non-GAAP Measures

EBITDA is defined as operating income excluding, if applicable: (1) depreciation expense, (2) non-cash compensation expense, (3) amortization and impairment of intangibles, (4) goodwill impairment, (5) pro forma adjustments for significant acquisitions, and (6) one-time items. Tree.com believes this measure is useful to investors because it represents the operating results from the Tree.com Businesses, but excludes the effects of these non-cash expenses. EBITDA has certain limitations in that it does not take into account the impact to Tree.com's statement of operations of certain expenses, including depreciation, non-cash compensation, and acquisition-related accounting. Tree.com endeavors to compensate for the limitations of the non-GAAP measure presented by also providing the comparable GAAP measure with equal or greater prominence and descriptions of the reconciling items, including quantifying such items, to derive the non-GAAP measure.

Adjusted EBITDA is defined as EBITDA, which is defined above, excluding (1) restructuring expenses and (2) proceeds from litigation settlements. Tree.com believes this measure is useful to investors because it represents the operating results from the Tree.com Businesses, but excludes the effects of the expenses. Adjusted EBITDA has certain limitations in that it does not take into account the impact to Tree.com's statement of operations of certain expenses, including depreciation, non-cash compensation, and acquisition-related accounting. Tree.com endeavors to compensate for the limitations of the non-GAAP measure presented by also providing the comparable GAAP measure with equal or greater prominence and descriptions of the reconciling items, including quantifying such items, to derive the non-GAAP measure.

Pro Forma Results

Tree.com will only present EBITDA on a pro forma basis if it views a particular transaction as significant in size or transformational in nature. For the periods presented in this report, there are no transactions that Tree.com has included on a pro forma basis.

One-Time Items

EBITDA is presented before one-time items, if applicable. These items are truly one-time in nature and non-recurring, infrequent or unusual, and have not occurred in the past two years or are not expected to recur in the next two years, in accordance with SEC rules. For the periods presented in this report, there are no one-time items.

Non-Cash Expenses That Are Excluded From Tree.com's Non-GAAP Measures

Non-cash compensation expense consists principally of expense associated with the grants, including invested grants assumed in acquisitions, of restricted stock units and stock options. These expenses are not paid in cash, and Tree.com will include the related shares in its future calculations of fully diluted shares outstanding. Upon vesting of restricted stock units and the exercise of certain stock options, the awards will be settled, at Tree.com's discretion, on a net basis, with Tree.com remitting the required tax withholding amount from its current funds.

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Amortization of intangibles is a non-cash expense relating primarily to acquisitions. At the time of an acquisition, the intangible assets of the acquired company, such as purchase agreements, technology and customer relationships, are valued and amortized over their estimated lives. Tree.com believes that since intangibles represent costs incurred by the acquired company to build value prior to acquisition, they were part of transaction costs.

RECONCILIATION OF EBITDA

For a reconciliation of EBITDA to operating (loss) income for Tree.com's operating segments and to net (loss) income in total for the years ended December 31, 2008, 2007 and 2006, see Note 8 to the consolidated financial statements.

Item 7A. *Quantitative and Qualitative Disclosures about Market Risk*

Interest Rate Risk

Tree.com's exposure to market rate risk for changes in interest rates relates primarily to LendingTree Loans' loans held for sale and interest rate lock commitments.

Loans Held for Sale and Interest Rate Lock Commitments

LendingTree Loans' mortgage banking operations expose the Company to interest rate risk from the point in time a consumer is given an interest rate lock commitment ("rate lock") until the time when those loans are sold in the secondary market ("loans held for sale"). The fair value of rate locks and loans held for sale is subject to change primarily due to changes in market interest rates. LendingTree Loans hedges the changes in fair value of certain rate locks and loans held for sale primarily by entering into mortgage forward delivery contracts. Although LendingTree Loans continues to enter into derivatives for risk management purposes, effective April 1, 2007 management determined these derivative instruments would no longer be designated as hedges and, therefore, would no longer qualify for the hedge accounting provisions of SFAS No. 133, "Accounting for Derivative Instruments and Hedging Activities."

When hedge accounting was discontinued, the affected loans held for sale were no longer adjusted for changes in fair value. However, the changes in fair value of the forward delivery contracts continued to be recognized in current earnings as a component of revenue. For the years ended December 31, 2008 and 2007, Tree.com recognized losses of \$0.2 million and \$1.1 million, respectively, related to the changes in fair value of forward delivery contracts related to loans held for sale. For the year ended December 31, 2006, Tree.com recognized a loss of \$0.3 million related to hedge ineffectiveness and a gain of \$0.1 million related to changes in the fair value of derivative instruments when hedge accounting was discontinued.

On January 1, 2008, the Company adopted the provisions of SFAS No. 157, "Fair Value Measurements" ("SFAS No. 157"). Prior to the adoption of SFAS 157 the recognition of gains and losses at the inception of a derivative contract were prohibited unless the fair value of the contract was evidenced by a quoted price in an active market. As no active market exists for rate locks, such day one gains and losses were not recognized until the related loan was sold. Prior to January 1, 2008, guidance also prohibited including the value of servicing the loan in calculating the fair value of a rate lock. Such guidance was rescinded by Staff Accounting Bulletin No. 109, "Written Loan Commitments Recorded at Fair Value Through Earnings" ("SAB 109"). Accordingly, with the adoption of SFAS No. 157 and SAB 109 on January 1, 2008, the day one gains and servicing value, adjusted by the loan funding probability, are included in the value of rate locks.

The net change in the fair value of the rate locks and related forward delivery contracts, including the impact of day one gains and servicing value, for the years ended December 31, 2008, 2007 and 2006, resulted in gains (losses) of \$62.0 million, \$(0.8) million and \$0.2 million, respectively, which have been recognized as a component of revenue in the accompanying consolidated statements of

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operations. The significant change year over year is due principally to the inclusion of day one gains and the value of servicing the loans in 2008 associated with the adoption of SFAS No. 157 and SAB 109. Prior to the adoption of SFAS No. 157 and SAB 109, the recognition of such day one gains and servicing value were proscribed and these gains were not recognized until realized through the sale of the related loans. This change in treatment, therefore, is only related to the timing of revenue recognition.

The fair values of derivative financial instruments at LendingTree Loans are impacted by movements in market interest rates. Changes in the fair value of the derivative financial instruments would substantially be offset by changes in the fair value of the items for which risk is being mitigated. As of December 31, 2008, if market interest rates had increased by 100 basis points, the aggregate fair value of the derivative financial instruments and the hedged items at LendingTree Loans would have decreased by \$1.2 million. As of December 31, 2008, if market interest rates had decreased by 100 basis points, the aggregate fair value of the derivative financial instruments and the hedged items at LendingTree Loans would have decreased by \$0.6 million.

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Item 8. Financial Statements and Supplementary Data

Report of Independent Registered Public Accounting Firm

The Board of Directors and Shareholders of
Tree.com, Inc.

We have audited the accompanying consolidated balance sheets of Tree.com, Inc. and subsidiaries as of December 31, 2008 and 2007, and the related consolidated statements of operations, shareholders' equity, and cash flows for each of the three years in the period ended December 31, 2008. Our audits also included the financial statement schedule listed in the Index at Item 15(a). These financial statements and financial statement schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements and the financial statement schedule based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. We were not engaged to perform an audit of the Company's internal control over financial reporting. Our audits included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Tree.com, Inc. and subsidiaries at December 31, 2008 and 2007, and the consolidated results of their operations and their cash flows for each of the three years in the period ended December 31, 2008, in conformity with U.S. generally accepted accounting principles. Also, in our opinion, the related financial statement schedule, when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly in all material respects the information set forth therein.

As discussed in Notes 2 and 10 to the consolidated financial statements, Tree.com adopted Statement of Financial Accounting Standard 157 "Fair Value Measurements" and Statement of Financial Accounting Standard 159 "The Fair Value Option for Financial Assets and Financial Liabilities Including an Amendment of FASB Statement No. 115" effective January 1, 2008.

/s/ Ernst & Young LLP

Los Angeles, California
February 26, 2009

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TREE.COM, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS

	Year Ended December 31,		
	2008	2007	2006
(In thousands, except per share amounts)			
Revenue			
Lending:			
Origination and sale of loans	\$ 88,968	\$ 130,151	\$ 221,400
Other lending	103,677	164,475	198,257
Total Lending	192,645	294,626	419,657
Real Estate	35,927	51,752	56,821
Total revenue	228,572	346,378	476,478
Cost of revenue			
Lending	43,051	47,264	47,412
Real Estate	21,342	25,850	25,805
Total cost of revenue (exclusive of depreciation shown separately below)	64,393	73,114	73,217
Gross margin	164,179	273,264	403,261
Operating expenses			
Selling and marketing expense	109,253	187,612	218,910
General and administrative expense	75,205	99,244	119,284
Product development	6,687	14,991	15,168
Proceeds from a litigation settlement		(15,000)	
Restructuring expense	5,704	22,867	
Amortization and impairment of intangibles	44,361	34,469	24,018
Depreciation	7,042	10,058	11,710
Goodwill impairment	130,957	459,463	
Total operating expenses	379,209	813,704	389,090
Operating (loss) income	(215,030)	(540,440)	14,171
Other income (expense)			
Interest income	134	1,171	1,307
Interest expense	(650)	(986)	(1,556)
Other income (expense)	(4)	14	(207)
Total other income (expense), net	(520)	199	(456)
(Loss) income before income taxes	(215,550)	(540,241)	13,715
Income tax benefit (provision)	13,274	(10,161)	(5,022)
Net (loss) income	\$(202,276)	\$(550,402)	\$ 8,693
Weighted average common shares outstanding	9,368	9,328	9,328
Net (loss) income per share available to common shareholders			
Basic	\$ (21.59)	\$ (59.00)	\$ 0.93

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Diluted	\$ (21.59)	\$ (59.00)	\$ 0.93
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The accompanying Notes to Consolidated Financial Statements are an integral part of these statements.

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	December 31, 2008	December 31, 2007
	(In thousands, except par value and share amounts)	
ASSETS:		
Cash and cash equivalents	\$ 73,643	\$ 45,940
Restricted cash and cash equivalents	15,204	14,953
Accounts receivable, net of allowance of \$367 and \$322, respectively	7,234	12,433
Loans held for sale (\$85,638 measured at fair value in 2008)	87,835	86,754
Deferred income taxes		6,420
Prepaid and other current assets	8,960	6,011
Total current assets	192,876	172,511
Property and equipment, net	17,057	21,466
Goodwill	9,285	140,892
Intangible assets, net	64,663	108,440
Other non-current assets	202	278
Total assets	\$ 284,083	\$ 443,587
LIABILITIES:		
Warehouse lines of credit	\$ 76,186	\$ 79,426
Notes payable		20,196
Accounts payable, trade	3,541	3,335
Deferred revenue	1,231	1,435
Income taxes payable		993
Accrued expenses and other current liabilities	37,146	74,506
Total current liabilities	118,104	179,891
Income taxes payable	862	730
Other long-term liabilities	9,016	11,636
Deferred income taxes	17,973	36,706
Total liabilities	145,955	228,963
Commitments and contingencies (Notes 14 and 15)		
SHAREHOLDERS' EQUITY:		
Preferred stock \$.01 par value; authorized 5,000,000 shares; none issued or outstanding		
Common stock \$.01 par value; authorized 50,000,000 shares; issued and outstanding 9,369,381 and -0- shares, respectively	94	
Invested capital		751,923
Additional paid-in capital	894,577	
Payables to IAC and subsidiaries		20,067
Accumulated deficit		