OVERSTOCK.COM, INC Form 10-Q May 01, 2009 Table of Contents

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

(Mark One)

X

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

For the quarterly period ended March 31, 2009

Or

0

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

For the transition period from

to

Commission file number: 000-49799

OVERSTOCK.COM, INC.

(Exact name of registrant as specified in its charter)

Delaware (State or other jurisdiction of incorporation or organization) **87-0634302** (I.R.S. Employer Identification Number)

Edgar Filing: OVERSTOCK.COM, INC - Form 10-Q

6350 South 3000 East

Salt Lake City, Utah 84121

(Address, including zip code, of

Registrant s principal executive offices)

Registrant s telephone number, including area code: (801) 947-3100

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), (2) has been subject to such filing requirements for the past 90 days. Yes x No o

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes o No o

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

Large accelerated filer o

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

Smaller reporting company o

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the act). Yes o No x

There were 22,814,053 shares of the Registrant s common stock, par value \$0.0001, outstanding on April 29, 2009.

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PART 1. FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

Overstock.com, Inc.

Consolidated Balance Sheets

(in thousands)

Assets Cash and cash equivalents and marketable securities 8,989 Cash, cash equivalents and marketable securities 8,989 Cash, cash equivalents and marketable securities 8,989 Cash, cash equivalents and marketable securities 109,566 78,607 Accounts receivable, net 6,985 9,694 Inventories, net 11,250 Trepaid expenses 9,664 8,733 Total current assets 110,129 Fred assets, net 23,144 20,513 Goodwill 2,274 Current assets 110,129 Fred assets, net 23,144 20,513 Goodwill 2,274 2 Current liabilities 2 2 Colspan="2">Colspan="2">Colspan="2">Colspan="2">Colspan="2">Colspan="2">Colspan="2">Colspan="2">Colspan="2">Colspan="2">Colspan="2">Colspan="2">Colspan="2"Colspan="2"Colspan="2"Colspan="2"Colspan="2"Colspan="2"Colspan="2"Colspan="2"Colspan="2"Cols		December 31, 2008	March 31, 2009 (unaudited)
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Other long-term liabilities2,5722,823Convertible senior notes, net66,55861,730Total liabilities175,430140,946Commitments and contingencies (Note 8)175,430140,946Stockholdersequity (deficit):175,430140,946Preferred stock, \$0.0001 par value, 5,000 shares authorized, no shares issued and outstanding as of December 31, 2008 and March 31, 2009175,430140,946Common stock, \$0.0001 par value, 100,000 shares authorized, 25,536 and 25,641 shares issued as of December 31, 2008 and March 31, 2009, respectively, and 22,743 and 22,81322Additional paid-in capital338,620339,479338,620339,479Accumulated deficit(264,985)(267,084)1Treasury stock, 2,793 and 2,828 shares at cost as of December 31, 2008 and March 31, 2008 and March 31, 2009, respectively722009, respectively(76,670)(76,997)	Deferred revenue	19,026	17,683
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Total liabilities175,430140,946Commitments and contingencies (Note 8)Stockholders equity (deficit):Preferred stock, \$0.0001 par value, 5,000 shares authorized, no shares issued and outstanding as of December 31, 2008 and March 31, 2009Common stock, \$0.0001 par value, 100,000 shares authorized, 25,536 and 25,641 shares issued as of December 31, 2008 and March 31, 2009, respectively, and 22,743 and 22,8132shares outstanding as of December 31, 2008 and March 31, 2009, respectively22Additional paid-in capital338,620339,479Accumulated deficit(264,985)(267,084)Treasury stock, 2,793 and 2,828 shares at cost as of December 31, 2008 and March 31,(76,670)(76,997)	Other long-term liabilities	2,572	2,823
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Stockholdersequity (deficit):Preferred stock, \$0.0001 par value, 5,000 shares authorized, no shares issued and outstanding as of December 31, 2008 and March 31, 2009Common stock, \$0.0001 par value, 100,000 shares authorized, 25,536 and 25,641 shares issued as of December 31, 2008 and March 31, 2009, respectively, and 22,743 and 22,813 shares outstanding as of December 31, 2008 and March 31, 2009, respectively22Additional paid-in capital338,620339,479Accumulated deficit(264,985)(267,084)Treasury stock, 2,793 and 2,828 shares at cost as of December 31, 2008 and March 31, 2009, respectively(76,670)(76,997)	Total liabilities	175,430	140,946
Preferred stock, \$0.0001 par value, 5,000 shares authorized, no shares issued and outstanding as of December 31, 2008 and March 31, 2009Common stock, \$0.0001 par value, 100,000 shares authorized, 25,536 and 25,641 shares issued as of December 31, 2008 and March 31, 2009, respectively, and 22,743 and 22,813 shares outstanding as of December 31, 2008 and March 31, 2009, respectively22Additional paid-in capital338,620339,479Accumulated deficit(264,985)(267,084)Treasury stock, 2,793 and 2,828 shares at cost as of December 31, 2008 and March 31,(76,670)(76,997)	Commitments and contingencies (Note 8)		
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2009, respectively (76,670) (76,997)	Treasury stock, 2,793 and 2,828 shares at cost as of December 31, 2008 and March 31.	())	× , ,
		(76.670)	(76,997)
Accumulated only completions to meeting 40	Accumulated other comprehensive income	48	

Total stockholders deficit	(2,985)	(4,600)
Total liabilities and stockholders deficit	\$ 172,445 \$	136,346

The accompanying notes are an integral part of these consolidated financial statements.

Overstock.com, Inc.

Consolidated Statements of Operations (unaudited)

(in thousands, except per share data)

Fulfillment partner151,0501Total net revenue202,8141Cost of goods sold1Direct(1)44,803Fulfillment partner124,0401Total cost of goods sold168,8431Gross profit33,9711Operating expenses: Sales and marketing(1)15,0191Total operating expenses: Operating expenses39,0981Total operating expenses: (901)39,0981Total operating expenses: (901)1,3041	
Direct\$\$1,764\$Fulfillment partner151,0501Total net revenue202,8141Cost of goods soldDirect(1)44,803Fulfillment partner124,0401Total cost of goods sold168,8431Gross profit33,971Operating expenses:Sales and marketing(1)15,019Technology(1)14,516General and administrative(1)9,563Total operating expenses39,098Operating loss(5,127)Interest income1,304Interest expense(901)Other income (expense), net(901)	
Fulfillment partner151,0501Total net revenue202,8141Cost of goods soldDirect(1)44,803Fulfillment partner124,0401Total cost of goods sold168,8431Gross profit33,971Operating expenses:Sales and marketing(1)15,019Technology(1)14,516General and administrative(1)9,563Operating expensesOperating expensesInterest income1,304Interest expense(901)Other income (expense), net	
Total net revenue202,8141Cost of goods sold1Direct(1)44,803Fulfillment partner124,040Total cost of goods sold168,843Gross profit33,971Operating expenses: Sales and marketing(1)15,019Technology(1)14,516General and administrative(1)9,563Total operating expenses39,098Operating loss(5,127)Interest income1,304Interest expense(901)Other income (expense), net9,163	35,059
Cost of goods sold44,803Direct(1)44,803Fulfillment partner124,040Total cost of goods sold168,843Gross profit33,971Operating expenses: Sales and marketing(1) Technology(1)15,019Total operating expenses9,563Total operating expenses39,098Operating loss(5,127)Interest income1,304Interest expense(901)Other income (expense), net(901)	52,308
Direct(1)44,803Fulfillment partner124,0401Total cost of goods sold168,8431Gross profit33,97133,971Operating expenses: Sales and marketing(1)15,019Technology(1)14,516General and administrative(1)9,563Total operating expenses39,098Operating loss(5,127)Interest income1,304Interest expense(901)Other income (expense), net1	87,367
Fulfillment partner124,0401Total cost of goods sold168,8431Gross profit33,97133,971Operating expenses: Sales and marketing(1)15,019Technology(1)14,516General and administrative(1)9,563Total operating expenses39,098Operating loss(5,127)Interest income1,304Interest expense(901)Other income (expense), net1	
Total cost of goods sold168,8431Gross profit33,971Operating expenses: Sales and marketing(1)15,019Technology(1)14,516General and administrative(1)9,563Total operating expenses39,098Operating loss(5,127)Interest income1,304Interest expense(901)Other income (expense), net1	30,478
Gross profit33,971Operating expenses: Sales and marketing(1)15,019Technology(1)14,516General and administrative(1)9,563Total operating expenses39,098Operating loss(5,127)Interest income1,304Interest expense(901)Other income (expense), net1	19,198
Operating expenses: 5,019 Sales and marketing(1) 15,019 Technology(1) 14,516 General and administrative(1) 9,563 Total operating expenses 39,098 Operating loss (5,127) Interest income 1,304 Interest expense (901) Other income (expense), net 9	49,676
Sales and marketing(1)15,019Technology(1)14,516General and administrative(1)9,563Total operating expenses39,098Operating loss(5,127)Interest income1,304Interest expense(901)Other income (expense), net1	37,691
Technology(1)14,516General and administrative(1)9,563Total operating expenses39,098Operating loss(5,127)Interest income1,304Interest expense(901)Other income (expense), net(901)	
General and administrative(1)9,563Total operating expenses39,098Operating loss(5,127)Interest income1,304Interest expense(901)Other income (expense), net1	13,540
Total operating expenses39,098Operating loss(5,127)Interest income1,304Interest expense(901)Other income (expense), net(901)	13,789
Operating loss (5,127) Interest income 1,304 Interest expense (901) Other income (expense), net (901)	13,454
Interest income1,304Interest expense(901)Other income (expense), net(901)	40,783
Interest expense (901) Other income (expense), net	(3,092)
Other income (expense), net	123
	(866)
Net loss \$ (4,724) \$	1,736
	(2,099)
Net loss per common share basic and diluted \$ (0.20) \$	(0.09)
Weighted average common shares outstanding basic and diluted 23,345	22,803
(1) Includes stock-based compensation as follows (Note 11):	
Cost of goods sold direct \$ 49 \$	33
Sales and marketing 84	95
Technology 214	172
General and administrative 973	559

The accompanying notes are an integral part of these consolidated financial statements.

Overstock.com, Inc.

Consolidated Statements of Stockholders Equity (Deficit)

and Comprehensive Loss (unaudited)

(in thousands)

	Comm Shares	on stock Amoun		Additional Paid-in Capital	Accumulated Deficit	Treas Shares	ury stock Amou	O Compi	mulated ther rehensive ne (loss)	Total
Balance at	05.50/	¢	•	220 (20	¢ (264.005)	(2,502)	•		10 ((2.005)
December 31, 2008 Stock-based compensation to employees and	25,536	\$	2 \$	338,620	\$ (264,985)	(2,793)	\$ (76,670) \$	48 \$	(2,985)
directors				849						849
Stock-based compensation to consultants in exchange for services				10						10
Restricted stock units issued upon vesting	105			10						10
Purchase of treasury stock						(35)		(327)		(327)
Comprehensive loss : Net loss					(2,099)					(2,099)
Reclassification adjustment for realized loss included in net loss					(2,099)				(48)	(48)
Total comprehensive loss									(48)	(2,147)
Balance at March 31, 2009	25,641	\$	2 \$	339,479	\$ (267,084)	(2,828)	\$ (76,997) \$	\$	(4,600)

The accompanying notes are an integral part of these consolidated financial statements.

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Overstock.com, Inc.

Consolidated Statements of Cash Flows (unaudited)

(in thousands)

		Three months er 2008	nded N	1arch 31, 2009	Twelve months e 2008	nded March 31, 2009
Cash flows from operating activities of continuing						
operations:	¢	(4.70.4)	¢	(2 ,000) ¢	(20 (72)	¢ (10.022)
Net loss	\$	(4,724)	\$	(2,099) \$	(30,672)	\$ (10,033)
Adjustments to reconcile net loss to net cash provided by						
(used in) operating activities of continuing operations:					300	
Loss from discontinued operations					300	
Depreciation and amortization, including internal-use		6 407		4 105	28 221	20.255
software and website development		6,497		4,185	28,221	20,355
Realized loss on marketable securities				39		373
Loss on settlement of notes receivable (Note 4)				104	1	3,929
Loss on disposition of fixed assets		1 104		184	1	324
Stock-based compensation to employees and directors		1,184		849	4,633	3,687
Stock-based compensation to consultants for services		(14)		10	170	283
Stock-based compensation relating to performance share		150			(100)	(1.150)
plan		150			(400)	(1,150)
Issuance of common stock from treasury for 401(k)		10			(00)	
matching contribution		19		74	(89)	201
Amortization of debt discount		87		74	345	321
Gain from early extinguishment of debt				(1,926)		(4,775)
Asset impairment and depreciation (other non-cash					0.1(0	
restructuring charges)					2,169	
Restructuring charges		(126)			4,025	(400)
Notes receivable accretion		(136)			(408)	(409)
Changes in operating assets and liabilities, net of						
discontinued operations:		1.021		(0.700)	(1.221)	120
Accounts receivable, net		1,931		(2,708)	(1,331)	130
Inventories, net		7,673		6,028	108	6,275
Prepaid inventories, net		1,004		(640)	33	533
Prepaid expenses		(2,546)		(707)	(683)	(283)
Other long-term assets, net		(25.510)		(716)	381	(1,232)
Accounts payable		(37,519)		(30,644)	9,418	(1,363)
Accrued liabilities		(12,669)		2,080	4,712	2,468
Deferred revenue		(1,775)		(1,343)	6,639	(3,507)
Other long-term liabilities		(206)		251	(399)	(5)
Net cash provided by (used in) operating activities of						
continuing operations		(41,044)		(27,083)	27,173	15,921

Overstock.com, Inc.

Consolidated Statements of Cash Flows (unaudited) (Continued)

(in thousands)

Purchases of marketable securities(6,539)(81,756)(29,0Maturities of marketable securities22,91152,16941,6Sale of marketable securities prior to maturity8,90216,6Expenditures for fixed assets, including internal-use software and website development(1,313)(1,736)(3,479)Proceeds from the sale of discontinued operations, net of cash(1,313)(1,736)(3,479)(19,12)
Sale of marketable securities prior to maturity8,90216,6Expenditures for fixed assets, including internal-use software and website development(1,313)(1,736)(3,479)(19,10)
Expenditures for fixed assets, including internal-use software and website development (1,313) (1,736) (3,479) (19,1
website development (1,313) (1,736) (3,479) (19,1
Proceeds from the sale of discontinued operations, net of cash
transferred 9,892
Collection of notes receivable 502 1,250 1,757 2,2
Net cash provided by (used in) investing activities of continuing
operations 15,561 8,416 (21,417) 12,4
Cash flows from financing activities of continuing operations:
Payments on capital lease obligations(3,794)(3,808)
Drawdowns on line of credit 5,268 1,612 6,522 9,3
Payments on line of credit (5,268) (1,612) (6,522) (9,3
Payments to retire convertible senior notes (2,976) (9,5
Purchase of treasury stock (12,000) (327) (12,000) (1,7
Exercise of stock options 2,077 1,4

Net cash used in financing activities of continuing operations