

OVERSTOCK.COM, INC
Form 10-Q
May 01, 2009
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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

(Mark One)

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

For the quarterly period ended March 31, 2009

Or

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

For the transition period from to

Commission file number: 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)

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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 No

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 No

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

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 act). Yes No

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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Table of Contents**PART 1. FINANCIAL INFORMATION****ITEM 1. FINANCIAL STATEMENTS****Overstock.com, Inc.****Consolidated Balance Sheets****(in thousands)**

	December 31, 2008	March 31, 2009 (unaudited)
Assets		
Current assets:		
Cash and cash equivalents	\$ 100,577	\$ 78,607
Marketable securities	8,989	
Cash, cash equivalents and marketable securities	109,566	78,607
Accounts receivable, net	6,985	9,693
Notes receivable (Note 4)	1,250	
Inventories, net	17,723	11,695
Prepaid inventories, net	761	1,401
Prepaid expenses	9,694	8,733
Total current assets	145,979	110,129
Fixed assets, net	23,144	20,513
Goodwill	2,784	2,784
Other long-term assets, net	538	2,920
Total assets	\$ 172,445	\$ 136,346
Liabilities and Stockholders Equity (Deficit)		
Current liabilities:		
Accounts payable	\$ 62,120	\$ 31,476
Accrued liabilities	25,154	27,234
Deferred revenue	19,026	17,683
Total current liabilities	106,300	76,393
Other long-term liabilities	2,572	2,823
Convertible senior notes, net	66,558	61,730
Total liabilities	175,430	140,946
Commitments 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, 2009		
Common 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, respectively	2	2
Additional paid-in capital	338,620	339,479
Accumulated 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)
Accumulated other comprehensive income	48	

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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.

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Overstock.com, Inc.

Consolidated Statements of Operations (unaudited)

(in thousands, except per share data)

	Three months ended March 31,	
	2008	2009
Revenue, net		
Direct	\$ 51,764	\$ 35,059
Fulfillment partner	151,050	152,308
Total net revenue	202,814	187,367
Cost of goods sold		
Direct(1)	44,803	30,478
Fulfillment partner	124,040	119,198
Total cost of goods sold	168,843	149,676
Gross profit	33,971	37,691
Operating expenses:		
Sales and marketing(1)	15,019	13,540
Technology(1)	14,516	13,789
General and administrative(1)	9,563	13,454
Total operating expenses	39,098	40,783
Operating loss	(5,127)	(3,092)
Interest income	1,304	123
Interest expense	(901)	(866)
Other income (expense), net		1,736
Net loss	\$ (4,724)	\$ (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.

Table of Contents**Overstock.com, Inc.****Consolidated Statements of Stockholders Equity (Deficit)****and Comprehensive Loss (unaudited)****(in thousands)**

	Common stock		Additional	Accumulated	Treasury stock		Accumulated	Total	
	Shares	Amount	Paid-in Capital	Deficit	Shares	Amount	Other Comprehensive Income (loss)		
Balance at December 31, 2008	25,536	\$	2 \$	338,620 \$	(2,793)	\$	(76,670) \$	48 \$	(2,985)
Stock-based compensation to employees and directors			849						849
Stock-based compensation to consultants in exchange for services			10						10
Restricted stock units issued upon vesting	105								
Purchase of treasury stock					(35)	(327)			(327)
Comprehensive loss :									
Net loss				(2,099)					(2,099)
Reclassification adjustment for realized loss included in net loss							(48)		(48)
Total comprehensive loss									(2,147)
Balance at March 31, 2009	25,641	\$	2 \$	339,479 \$	(2,828)	\$	(76,997) \$	\$	(4,600)

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

Table of Contents**Overstock.com, Inc.****Consolidated Statements of Cash Flows (unaudited)**

(in thousands)

	Three months ended March 31,		Twelve months ended March 31,	
	2008	2009	2008	2009
Cash flows from operating activities of continuing operations:				
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:				
Loss from discontinued operations			300	
Depreciation and amortization, including internal-use 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)				3,929
Loss on disposition of fixed assets		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 plan	150		(400)	(1,150)
Issuance of common stock from treasury for 401(k) matching contribution	19		(89)	
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 restructuring charges)			2,169	
Restructuring charges			4,025	
Notes receivable accretion	(136)		(408)	(409)
Changes in operating assets and liabilities, net of discontinued operations:				
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		(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

Table of Contents**Overstock.com, Inc.****Consolidated Statements of Cash Flows (unaudited) (Continued)****(in thousands)**

Cash flows from investing activities of continuing operations:				
Purchases of marketable securities	(6,539)		(81,756)	(29,009)
Maturities of marketable securities	22,911		52,169	41,631
Sale of marketable securities prior to maturity		8,902		16,642
Expenditures for fixed assets, including internal-use software and website development	(1,313)	(1,736)	(3,479)	(19,113)
Proceeds from the sale of discontinued operations, net of cash transferred			9,892	
Collection of notes receivable	502	1,250	1,757	2,254
Net cash provided by (used in) investing activities of continuing operations	15,561	8,416	(21,417)	12,405
Cash flows from financing activities of continuing operations:				
Payments on capital lease obligations	(3,794)		(3,808)	(2)
Drawdowns on line of credit	5,268	1,612	6,522	9,307
Payments on line of credit	(5,268)	(1,612)	(6,522)	(9,307)
Payments to retire convertible senior notes		(2,976)		(9,526)
Purchase of treasury stock	(12,000)	(327)	(12,000)	(1,779)
Exercise of stock options			2,077	1,471
Net cash used in financing activities of continuing operations				