

TOP IMAGE SYSTEMS LTD
Form 20-F/A
November 17, 2010

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 20-F/A

Amendment No. 2

REGISTRATION STATEMENT PURSUANT TO SECTION 12(b) or (g)
OF THE SECURITIES EXCHANGE ACT OF 1934

OR

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF
THE SECURITIES EXCHANGE ACT OF 1934
For the fiscal year ended December 31, 2009

OR

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

OR

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

Commission File Number 001-14552

Top Image Systems Ltd.
(Exact name of Registrant as specified in its charter)

Israel
(Jurisdiction of incorporation or organization)

2 Ben Gurion St, Ramat Gan, 52573, Israel
(Address of principal executive offices)

Edgar Filing: TOP IMAGE SYSTEMS LTD - Form 20-F/A

Securities registered or to be registered pursuant to Section 12(b) of the Act:

Title of each class	Name of each exchange on which registered
Ordinary Shares, nominal value NIS 0.04 per share	NASDAQ Capital Market

Securities registered or to be registered pursuant to Section 12(g) of the Act:
None

Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act:
None

Indicate the number of outstanding shares of each of the issuer's classes of capital or common stock as of the close of the period covered by the annual report:

9,325,638 Ordinary Shares

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

Yes No

If this report is an annual or transition report, indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934.

Yes No

Note – Checking the box above will not relieve any registrant required to file reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 from their obligations under those Sections.

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

Yes No

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

Large accelerated filer Accelerated filer Non-accelerated filer

Indicate by check mark which basis of accounting the registrant has used to prepare the financial statements included in this filing:

U.S. GAAP International Financial Reporting Standards as issued by the International Accounting Standards Board Other

If "Other" has been checked in response to the previous question, indicate by check mark which financial statement item the registrant has elected to follow.

Item 17 Item 18

If this is an annual report, indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes No

(APPLICABLE ONLY TO ISSUERS INVOLVED IN BANKRUPTCY PROCEEDINGS DURING THE PAST FIVE YEARS)

Indicate by check mark whether the registrant has filed all documents and reports required to be filed by Sections 12, 13 or 15(d) of the Securities Exchange Act of 1934 subsequent to the distribution of securities under a plan confirmed

by a court.

Yes No

EXPLANATORY NOTE

This Form 20-F/A (the "Amended Filing") is being filed by Top Image Systems Ltd. (the "Company" , or "TIS") to amend its Annual Report on Form 20-F for the year ended December 31, 2009 (the "Original Filing"), filed with the Securities and Exchange Commission (the "SEC") on June 23, 2010, as amended by Amendment No. 1 ("Amendment No.1") filed with the SEC on June 28, 2010 to:

- amend Item 16F as to the periods for which disclosure is being made with respect to (i) the absence of disagreements with and other reportable events related to, KPMG who formerly audited the financial statements of our subsidiary Top Image Systems (Asia Pacific) Pte. Ltd. (formerly known as Asiasoft Global Pte. Ltd.) and its consolidated subsidiaries ("Asiasoft"), and (ii) Asiasoft not consulting with E&Y regarding the matters described in Item 16F(a)(2)(i) or (ii) of Form 20-F; and
- amend Item 19 to (i) replace the letter from KPMG which was attached to the Original Filing as Exhibit 15.3 with a currently-dated letter confirming the amended disclosure, and (ii) contain currently dated certifications from our Chief Executive Officer and Chief Financial Officer, limited to only those the matters required by Question 161.01 of the Compliance and Disclosure Interpretations of the Division of Corporation Finance of the SEC. Such currently-dated certifications are attached hereto as Exhibits 12.1 and 12.2. Because no financial statements are contained in this Amendment, we are not including certifications required by Section 906 of the Sarbanes-Oxley Act of 2002 (18 U.S.C. § 1350).

Except set forth herein, no other changes are being made to the Original Filing. Unless expressly stated, this Amended Filing does not reflect events occurring after the filing of the Original Filing, nor does it modify or update in any way the disclosures contained in the Original Filing. Accordingly, this Amendment should be read in conjunction with our Original Filing and our other documents filed with or furnished to the SEC subsequent to the filing of the Original Filing.

ITEM 16F. CHANGE IN REGISTRANT'S CERTIFYING ACCOUNTANTS

On April 21, 2009 we have been advised by KPMG, who audited the financial statements of our subsidiary, Asiasoft, that KPMG does not wish to stand for reelection as the auditor of Asiasoft. Effective November 26, 2009 E&Y, which has been our independent certifying public accountant and has been auditing our financial statement since 2003 has been elected to serve as our independent certifying public accountant and to audit the financial statements of TIS including Asiasoft for the year ended December 31, 2009.

During the Company's last two fiscal years, the KPMG's reports on the financial statements of Asiasoft did not contain an adverse opinion or disclaimer of opinion, nor were they qualified or modified as to audit scope, procedure or accounting principles.

During the six months ended December 31, 2007, the fiscal year ended December 31, 2008 and the subsequent interim period from January 1, 2009 through April 21, 2009 there were (i) no disagreements between the Company and KPMG on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which disagreements, if not resolved to the satisfaction of KPMG, would have caused it to make reference to the subject matter of the disagreement in connection with their reports on the financial statements of Asiasoft; and (ii) no reportable events as described in Item 16F(a)(1)(v) of this form 20-F.

During the six months ended December 31, 2007, the fiscal year ended December 31, 2008 and the subsequent interim period from January 1, 2009 through November 26, 2009, Asiasoft did not consult with E&Y with respect to the application of accounting principles to a specified transaction, either completed or proposed, or the type of audit

opinion that might be rendered on the Asiasoft's financial statements, or any other matters or reportable events as set forth in Items 16F(a)(2)(i) or (ii) of this form 20-F. E&Y has audited the financial statements of the Company, including Asiasoft for the year ended December 31, 2009.

The Company has provided KPMG with a copy of this report and requested that KPMG furnish the Company with a letter addressed to the Securities and Exchange Commission stating whether it agrees with the statements made by the Company herein and, if not, stating the respects in which it does not agree. A copy of the letter from KPMG to the Securities and Exchange Commission is filed as Exhibit 15.3 to this Annual Report on form 20-F/A.

ITEM 19. EXHIBITS

Number	Description
1.1	Amended and restated Articles of Association of the Company dated October 27, 2003 (incorporated by reference to exhibit 1.1 to the Company's annual report on Form 20-F for the year ended December 31, 2003).
1.2	Memorandum of Association of the Company (incorporated by reference to exhibit 3.2 to the Company's Registration Statement on Form F-1 (registration number 333-05718)).
2.1	Form of Warrant issuable in connection with the Securities Purchase Agreement between the Company and the Purchasers named therein, dated as of June 10, 2004 (incorporated by reference to exhibit 99.2 to the Company's current report on Form 6-K filed June 10, 2004).
4.1	Top Image Systems Ltd. Employee Share Option Plan (2000) (incorporated by reference to exhibit 4.1 to the Company registration statement on Form S-8 filed on December 19, 2002).
4.2	Form of Stock Option Agreement covering grants to individuals dated August 20, 1996 (incorporated by reference to exhibit 10.2 to the Company's Registration Statement on Form S-8 (registration number 333-11560)).
4.3	Employee Agreement between the Company and Ido Schechter (incorporated by reference to exhibit 10.4(f) to the Company's Registration Statement on Form F-1 (registration number 333-05718)).
4.4	Preemptive Rights Agreement, dated as of May 8, 2000, between the Company and Izhak Nakar (incorporated by reference to exhibit 3.34 to the Company's annual report on Form 20-F (registration number 001-14552)).
4.5	Securities Purchase Agreement between the Company and the Purchasers named therein, dated as of June 10, 2004 (incorporated by reference to exhibit 99.3 to the Company's current report on Form 6-K filed June 10, 2004).
4.6	Top Image Systems Ltd. Israeli Share Option Plan (2003) (incorporated by reference to exhibit 4.48 to the Company's annual report on Form 20-F for the year ended December 31, 2003).
4.7	Business Transfer Agreement between the Company and Toyo Ink Mfg. Co., Ltd., dated as of August, 2004 (incorporated by reference to exhibit 4.28 to the Company's annual report on Form 20-F for the year ended December 31, 2004).
4.8	Terms and Conditions of Convertible Debentures Issued December 27, 2006 (incorporated by reference to exhibit 4.11 to the Company's annual report on Form 20-F for the year ended December 31, 2006).

Number	Description
4.9	Form of Director and Officer Indemnification Agreement (incorporated by reference to exhibit 4.12 to the Company's annual report on Form 20-F for the year ended December 31, 2006).
4.10	Sale and Purchase of Capture Projects Limited, between Top Image Systems UK Ltd , Top Image Systems Ltd , Roger Stoker and Edward Stoker , dated as of April, 2007 (incorporated by reference as Exhibit 4.13 to the Company's annual report on Form 20-F for the year ended December 31, 2007).
4.11	Stock and Purchase of Asiasoft Global Pte. Ltd., between Asiasoft Global Pte. Ltd., Toh Kian Hong and PC Holding Pte, Ltd., dated as of June 12, 2007 (incorporated by reference as Exhibit 4.14 to the Company's annual report on Form 20-F for the year ended December 31, 2007).
4.12	Sale and Purchase of Asiasoft Solutions (GZ) Limited, between Tai Kin Chung and Asiasoft Global Pte. Ltd., dated as of June 12, 2007 (incorporated by reference as Exhibit 4.15 to the Company's annual report on Form 20-F for the year ended December 31, 2007).
4.13	Sale and Purchase of ordinary shares in the capital of Asiasoft Solutions (HK) Limited, between Tai Chung and Asiasoft Pte. Ltd., dated as of July, 2007 (incorporated by reference as Exhibit 4.16 to the Company's annual report on Form 20-F for the year ended December 31, 2007).
4.14	Sale and Purchase of Shanghai Asiasoft Ltd., between Shanghai Aixun Software Co., Ltd. and Asiasoft System (China) Limited, dated as of July 2007 (incorporated by reference as Exhibit 4.17 to the Company's annual report on Form 20-F for the year ended December 31, 2007).
4.15	Call Option Amendment Agreement dated January 4, 2009 by and among Mr. Toh Kian Hong and Top Image Systems Ltd. (incorporated by reference to exhibit 4.18 to the Company's annual report on Form 20-F for the year ended December 31, 2008).
4.16	Terms and Conditions Arrangement with the Holders of Convertible Debentures Issued December 27, 2006, dated as of January 13, 2010. (filed with the Original Filing)
8	List of Subsidiaries (filed with the Original Filing).
12.1	Certification of the Chief Executive Officer pursuant to 15 U.S.C. Section 7241, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
12.2	Certification of the Chief Financial Officer pursuant to 15 U.S.C. Section 7241, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
15.1	Consent of Kost Forer Gabbay & Kasierer– member of Ernst & Young Global (filed with the Original Filing).
15.2	Audit Committee Charter (incorporated by reference to exhibit 14.3 to Company's annual report on Form 20-F for the year ended December 31, 2003).
15.3	Letter dated November 17, 2010 from KPMG to the SEC.
15.4	Consent of KPMG (filed with Amendment No. 1).

SIGNATURES

The registrant hereby certifies that it meets all of the requirements for filing on Form 20-F/A and that it has duly caused and authorized the undersigned to sign this annual report on its behalf.

TOP IMAGE SYSTEMS LTD.

By: /s/ Ido Schechter
Name: Ido Schechter
Title: Chief Executive
Officer

Date: November 17, 2010

- 4 -
