

MERGE HEALTHCARE INC
Form 10-K/A
March 17, 2010

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

FORM 10-K/A

Amendment No. 1

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

For the fiscal year ended December 31, 2009

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 0-29486

MERGE HEALTHCARE INCORPORATED
(Exact name of Registrant as specified in its charter)

Delaware
(State or other jurisdiction of incorporation or organization)

39-1600938
(I. R. S. Employer Identification No.)

6737 West Washington Street, Suite 2250, Milwaukee, Wisconsin 53214-5650
(Address of principal executive offices, including zip code)

(Registrant's telephone number, including area code) (414) 977-4000

Securities registered under Section 12(b) of the Exchange Act:

Title of Each Class	Name of Each Exchange on Which Registered
Common Stock, \$0.01 par value per share	NASDAQ Global Market

Securities registered under Section 12(g) of the Exchange 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

Indicate 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

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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 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, or a non-accelerated filer, or a smaller reporting company. See the definitions of "accelerated filers", "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

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

The aggregate market value for the Registrant's voting and non-voting common equity held by non-affiliates of the Registrant as of June 30, 2009, based upon the closing sale price of the Common Stock on June 30, 2009, as reported on the NASDAQ Global Market, was approximately \$116,910,210. Shares of Common Stock held by each officer and director and by each person who owns ten percent or more of the outstanding Common Stock have been excluded in that such persons may be deemed to be affiliates. This determination of affiliate status is not necessarily a conclusive determination for other purposes.

The number of shares outstanding of the Registrant's common stock, par value \$0.01 per share, as of March 10, 2010: 75,228,395

EXPLANATORY NOTE

This Form 10-K/A, Amendment No. 1, is being filed by Merge Healthcare Incorporated (“Merge,” “we,” “us,” or “our”) to amend our Annual Report on Form 10-K for the year ended December 31, 2009, filed with the Securities and Exchange Commission (SEC) on March 12, 2010, to reflect changes to the audit report originally re-issued by KPMG LLP in connection with the filing of our 10-K. Except for the audit report of KPMG LLP and their consent included in Exhibit 23.2, no other changes have been made to our 10-K. Also, this Form 10-K/A has not been updated to reflect events that occurred after the date of the original annual report. As such, this Form 10-K/A should be read in conjunction with our 10-K filing made with the SEC on March 12, 2010.

Updated certifications of our principal executive and financial officer are included as exhibits to this amendment.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

MERGE HEALTHCARE INCORPORATED

March 17, 2010

/s/ Steven M. Oreskovich
By: Steven M. Oreskovich
Title: Chief Financial Officer

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Item 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

Report of Independent Registered Public Accounting Firm

Board of Directors and Shareholders
Merge Healthcare Incorporated
Milwaukee, Wisconsin

We have audited the accompanying consolidated balance sheets of Merge Healthcare Incorporated and subsidiaries (the Company) as of December 31, 2009 and 2008 and the related consolidated statements of operations, shareholders' equity, cash flows, and comprehensive income (loss) for each of the two years in the period ended December 31, 2009. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements 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. 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 consolidated financial statements referred to above present fairly, in all material respects, the financial position of Merge Healthcare Incorporated at December 31, 2009 and 2008, and the results of its operations, cash flows, and comprehensive income (loss) for each of the two years in the period ended December 31, 2009, in conformity with accounting principles generally accepted in the United States of America.

As discussed in Note 1 to the consolidated financial statements, the Company changed its method of accounting for business combinations with the adoption of the guidance of Accounting Standards Codification Topic 805, Business Combinations effective January 1, 2009.

We have also audited the presentation of net sales in the direct and indirect segments for the year ended December 31, 2007 as disclosed in Note 16. In our opinion, such disclosures are appropriate and Accounting Standards Codification Topic 280 on segment disclosures has been properly applied. We were not engaged to audit, review or apply any procedures to the 2007 financial statements other than with respect to the presentation of net sales in the direct and indirect segments and accordingly, we do not express an opinion or any other form of assurance on the 2007 financial statements taken as a whole.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), Merge Healthcare Incorporated's internal control over financial reporting as of December 31, 2009, based on criteria established in Internal Control – Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) and our report dated March 12, 2010 expressed an unqualified opinion thereon.

/s/ BDO Seidman, LLP

Milwaukee, Wisconsin
March 12, 2010

Report of Independent Registered Public Accounting Firm

The Board of Directors and Shareholders
Merge Healthcare Incorporated:

We have audited the accompanying consolidated statements of operations, shareholders' equity, comprehensive loss and cash flows of Merge Healthcare Incorporated and subsidiaries (the Company) for the year ended December 31, 2007. These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audit.

We conducted our audit 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. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the statements of operations and cash flows of the Company for the year ended December 31, 2007 in conformity with U.S. generally accepted accounting principles.

We were not engaged to audit, review, or apply any procedures to the adjustments to retrospectively apply the changes in segment disclosures described in note 1 and note 16 and, accordingly, we do not express an opinion or any other form of assurance about whether such adjustments are appropriate and have been properly applied. Those adjustments were audited by a successor auditor.

The accompanying consolidated financial statements have been prepared assuming that the Company will continue as a going concern. As discussed in note 1 to the consolidated financial statements included in the Form 10-K for the annual period ended December 31, 2007, the Company has suffered recurring losses from operations and negative cash flows that raise substantial doubt about its ability to continue as a going concern. Management's plans in regard to these matters are also described in note 1. The consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty.

/s/ KPMG LLP
Chicago, Illinois
March 31, 2008

MERGE HEALTHCARE INCORPORATED AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
(in thousands, except for share data)

	December 31, 2009	December 31, 2008
ASSETS		
Current assets:		
Cash and cash equivalents, including restricted cash of \$559 and \$621 at December 31, 2009 and 2008, respectively	\$19,621	\$17,848
Accounts receivable, net of allowance for doubtful accounts and sales returns of \$1,287 and \$1,378 at December 31, 2009 and 2008, respectively	17,219	12,779
Inventory	280	550
Prepaid expenses	1,896	1,509
Deferred income taxes	142	217
Other current assets	3,590	721
Total current assets	42,748	33,624
Property and equipment:		
Computer equipment	8,542	6,317
Office equipment	2,347	1,989
Leasehold improvements	1,715	1,272
	12,604	9,578
Less accumulated depreciation	8,727	7,604
Net property and equipment	3,877	1,974
Purchased and developed software, net of accumulated amortization of \$15,488 and \$12,584 at December 31, 2009 and 2008, respectively	12,621	5,653
Customer relationships and trade names, net of accumulated amortization of \$2,411 and \$1,259 at December 31, 2009 and 2008, respectively	6,715	2,291
Goodwill	28,749	-
Deferred income taxes	4,689	4,585
Investments	523	5,690
Other assets	327	920
Total assets	\$100,249	\$54,737
LIABILITIES AND SHAREHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	\$4,444	\$4,036
Accrued wages	1,950	1,590
Restructuring accrual	879	1,173
Current portion of capital lease obligations	130	-
Other accrued liabilities	1,535	2,421
Deferred revenue	15,579	16,150
Total current liabilities	24,517	25,370
Obligations under capital leases, excluding current portion	75	-
Note payable	-	14,230
Deferred income taxes	68	39
Deferred revenue	1,193	644
Income taxes payable	5,461	5,418
Other	798	195

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Total liabilities	32,112	45,896
Shareholders' equity:		
Series B Preferred Stock, \$0.01 par value: 1,000,000 shares authorized; zero shares issued and outstanding at December 31, 2009 and 2008	-	-
Series 3 Special Voting Preferred Stock, no par value: one share authorized; zero shares and one share issued and outstanding at December 31, 2009 and 2008	-	-
Common stock, \$0.01 par value: 100,000,000 shares authorized: 74,791,753 shares and 55,506,702 shares issued and outstanding at December 31, 2009 and 2008, respectively	748	555
Common stock subscribed; 9,978 shares and 30,271 shares at December 31, 2009 and 2008, respectively	32	37
Additional paid-in capital	524,114	465,083
Accumulated deficit	(458,356)	(458,641)
Accumulated other comprehensive income	1,599	1,807
Total shareholders' equity	68,137	8,841
Total liabilities and shareholders' equity	\$100,249	\$54,737

See accompanying notes to consolidated financial statements.

MERGE HEALTHCARE INCORPORATED AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS
(in thousands, except for share and per share data)

	Years Ended December 31,		
	2009	2008	2007
Net sales:			
Software and other	\$33,037	\$27,561	\$29,590
Services and maintenance	33,804	29,174	29,982
Total net sales	66,841	56,735	59,572
Cost of sales:			
Software and other	3,730	5,121	6,722
Services and maintenance	12,324	11,672	14,089
Depreciation, amortization and impairment	3,323	3,279	8,537
Total cost of sales	19,377	20,072	29,348
Gross margin	47,464	36,663	30,224
Operating costs and expenses:			
Sales and marketing	9,203	9,313	18,565
Product research and development	10,689	13,240	21,065
General and administrative	13,005	20,461	29,492
Acquisition-related expenses	1,225	-	-
Goodwill and trade name impairment, restructuring and other expenses	1,613	11,816	124,131
Depreciation, amortization and impairment	2,766	3,530	8,209
Total operating costs and expenses	38,501	58,360	201,462
Operating income (loss)	8,963	(21,697)	(171,238)
Other income (expense):			
Interest expense	(2,716)	(1,750)	(89)
Interest income	50	268	1,233
Other, net	(6,147)	(564)	(1,714)
Total other income (expense)	(8,813)	(2,046)	(570)
Income (loss) before income taxes	150	(23,743)	(171,808)
Income tax expense (benefit)	(135)	(60)	(240)
Net income (loss)	\$285	\$(23,683)	\$(171,568)
Net income (loss) per share - basic	\$0.00	\$(0.51)	\$(5.06)
Weighted average number of common shares outstanding - basic	60,910,268	46,717,546	33,913,379
Net income (loss) per share - diluted	\$0.00	\$(0.51)	\$(5.06)
Weighted average number of common shares outstanding - diluted	62,737,821	46,717,546	33,913,379

See accompanying notes to consolidated financial statements.

MERGE HEALTHCARE INCORPORATED
CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY
Years Ended December 31, 2007, 2008 and 2009
(in thousands, except for share data)

	Preferred Stock		Common Stock				Additional Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive Income	Total Shareholders' Equity
	Shares Issued	Amount Subscribed	Shares Issued	Amount Subscribed	Shares Issued	Amount Subscribed				
Balance at December 31, 2006	1	\$-	5,242	\$ 33	29,291,030	\$ 293	\$ 451,130	\$ (263,390)	\$ 1,859	\$ 189,925
Exchange of exchangeable share rights into Common Stock	-	-	-	-	2,879,672	29	(29)	-	-	-
Stock issued under ESPP	-	-	(5,242)	(33)	21,494	-	121	-	-	88
Exercise of stock options	-	-	-	-	45,504	-	126	-	-	126
Share-based compensation expense	-	-	-	-	-	-	-	-	-	-