

DIGI INTERNATIONAL INC

Form 10-K/A

December 09, 2005

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**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549
FORM 10-K/A**

(Mark one)

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

For the fiscal year ended: September 30, 2005

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: 0-17972

DIGI INTERNATIONAL INC.

(Exact name of registrant as specified in its charter)

Delaware

41-1532464

(State or other jurisdiction of
incorporation or organization)

(I.R.S. Employer
Identification Number)

11001 Bren Road East
Minnetonka, Minnesota 55343

(Address of principal executive offices) (Zip Code)

(952) 912-3444

(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act: None

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

Common stock, \$.01 par value

(Title of each class)

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, 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 an accelerated filer (as defined in Rule 12b-2 of the Act).
Yes No

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

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The aggregate market value of voting stock held by non-affiliates of the Registrant as of the last business day of the Registrant's most recently completed second fiscal quarter was \$308,757,212, based on a closing price of \$13.72 per common share as reported on the National Association of Securities Dealers Automated Quotation System National Market System.

Shares of common stock outstanding as of November 21, 2005: 22,845,022

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Rule 13a-14(a)/15d-14(a) Certification of CFO

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Explanatory Note

This Amendment No. 1 on Form 10-K/A, or Amendment No. 1, is being filed by Digi International Inc. to amend our Annual Report on Form 10-K for the fiscal year ended September 30, 2005 filed with the Securities and Exchange Commission on December 7, 2005. The sole purpose of this Amendment No. 1 is to re-file Exhibit 13, the 2005 Letter to Stockholders, in its entirety. Certain portions of the text of Exhibit 13 were unintentionally omitted from the original filing of the Form 10-K.

This Amendment No. 1 does not update any other disclosures to reflect developments since the original date of filing. Unaffected items have not been repeated in this Amendment No. 1, and no other changes have been made.

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PART IV

ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

(b) Exhibits

| Exhibit Number | Description |
|-------------------|--|
| 2(a) | Agreement and Plan of Merger among the Company, Dove Sub Inc. and NetSilicon, Inc. dated as of October 30, 2001 (1) |
| 2(b) | Purchase and assignment contract dated March 20, 2005 between Embedded Solutions AG, Klaus Flesch, Angelika Flesch and Digi International GmbH (2) |
| 2(c) | Agreement and Plan of Merger among Digi International Inc., Karat Sub Inc. and Z-World, Inc. dated as of May 26, 2005 (excluding schedules and exhibits, which the Registrant agrees to furnish supplementally to the Securities and Exchange Commission upon request) (3) |
| 3(a) | Restated Certificate of Incorporation of the Company, as amended (4) |
| 3(b) | Amended and Restated By-Laws of the Company, as amended (5) |
| 4(a) | Form of Rights Agreement, dated as of June 10, 1998 between Digi International Inc. and Wells Fargo Bank Minnesota, National Association (formerly known as Norwest Bank Minnesota, National Association), as Rights Agent (6) |
| 4(b) | Amendment dated January 26, 1999, to Share Rights Agreement, dated as of June 10, 1998 between Digi International Inc. and Wells Fargo Bank Minnesota, National Association (formerly known as Norwest Bank Minnesota, National Association), as Rights Agent (7) |
| 10(a) | Stock Option Plan of the Company as Amended and Restated as of September 28, 2005* |
| 10(b) | Form of indemnification agreement with directors and officers of the Company (8) |
| 10(c) | Agreement between the Company and Subramanian Krishnan dated March 26, 1999* (9) |
| 10(c)(i) | Amendment to Agreement between the Company and Subramanian Krishnan dated February 5, 2001* (10) |
| 10(d) | Employment Agreement between the Company and Joseph T. Dunsmore dated October 24, 1999* (11) |
| 10(e) | Agreement between the Company and Bruce Berger dated March 29, 2000* (12) |
| 10(e)(i) | Agreement between the Company and Bruce Berger dated December 14, 2001* (13) |
| 10(f) | Employee Stock Purchase Plan, as amended, of the Company (14) |
| 10(g) | 2000 Omnibus Stock Plan of the Company as Amended and Restated as of September 28, 2005* |

- 10(h) Digi International Inc. Non-Officer Stock Option Plan, as amended (15)
- 10(i) NetSilicon, Inc. Amended and Restated 1998 Director Stock Option Plan (16)
- 10(j) NetSilicon, Inc. Amended and Restated 1998 Incentive and Non-Qualified Stock Option Plan (17)

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ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES (CONTINUED)

(b) Exhibits (continued)

| Exhibit Number | Description |
|-------------------|--|
| 10(k) | NetSilicon, Inc. 2001 Stock Option and Incentive Plan (18) |
| 10(l) | Form of Notice of Grant of Stock Options and Option Agreement and Terms and Conditions of Nonstatutory Stock Option Agreement (19) |
| 10(m) | Fiscal 2006 Executive Officer Compensation* (20) |
| 10(n) | Amendments to Director Compensation* (20) |
| 13 | 2005 Letter to Stockholders |
| 14 | Code of Ethics (21) |
| 21 | Subsidiaries of the Company |
| 23 | Consent of Independent Registered Public Accounting Firm |
| 24 | Powers of Attorney |
| 31(a) | Rule 13a-14(a)/15d-14(a) Certification of Chief Executive Officer |
| 31(b) | Rule 13a-14(a)/15d-14(a) Certification of Chief Financial Officer |
| 32 | Section 1350 Certification |

* Management contract or compensatory plan or arrangement required to be filed as an exhibit to this Form 10-K.

Incorporated by reference to the same numbered exhibit to the Company's Form 10-K for the year ended September 30, 2005 (File no. 0-17972).

- (1) Incorporated by reference to Annex A to the Company's Registration Statement on Form S-4 (File no. 333-74118).
- (2) Incorporated by reference to Exhibit 2(a) to the Company's Form 10-Q for the quarter ended March 31, 2005 (File no. 0-17972).
- (3) Incorporated by reference to Exhibit 2 to the Company's Form 8-K dated May 26, 2005 (File no. 0-17972).
- (4) Incorporated by reference to Exhibit 3(a) to the Company's Form 10-K for the year ended September 30, 1993 (File no. 0-17972).
- (5) Incorporated by reference to Exhibit 3(b) to the Company's Form 10-K for the year ended September 30, 2001 (File no. 0-17972).

(6)

Incorporated by reference of Exhibit 1 to the Company's Registration Statement on Form 8-A dated June 24, 1998 (File no. 0-17972).

- (7) Incorporated by reference to Exhibit 1 to Amendment No. 1 to the Company's Registration Statement on Form 8-A dated February 5, 1999 (File no. 0-17972).

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ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES (CONTINUED)

- (8) Incorporated by reference to Exhibit 10(b) to the Company's Registration Statement on Form S-1 (File no. 33-30725).

- (9) Incorporated by reference to Exhibit 10(k) to the Company's Form 10-Q for the quarter ended March 31, 1999 (File no. 0-17972).

- (10) Incorporated by reference to Exhibit 10(e) to the Company's Form 10-Q for the quarter ended December 31, 2000 (File no. 0-17972).

- (11) Incorporated by reference to Exhibit 10(j) to the Company's Form 10-K for the year ended September 30, 1999 (File no. 0-17972).

- (12) Incorporated by reference to Exhibit 10(g) to the Company's Form 10-K for the year ended September 30, 2000 (File no. 0-17972).

0-17972).

- (13) Incorporated by reference to Exhibit 10(f) to the Company's Form 10-K for the year ended September 30, 2001 (File no. 0-17972).
- (14) Incorporated by reference to Exhibit B to the Company's Proxy Statement for its Annual Meeting of Stockholders held on January 23, 2002 (File no. 0-17972).
- (15) Incorporated by reference to Exhibit 10(a) to the Company's Form 10-Q for the quarter ended December 31, 2004 (File no. 0-17972).
- (16) Incorporated by reference to Exhibit 4.3 to the Company's Registration Statement on Form S-8 dated February 13, 2002 (File no. 333-82672).
- (17) Incorporated by reference to Exhibit 4.3 to the Company's

Registration
Statement on
Form S-8 dated
February 13,
2002 (File no.
333-82670).

(18) Incorporated by
reference to
Exhibit 4.3 to
the Company's
Registration
Statement on
Form S-8 dated
February 13,
2002 (File no.
333-82668).

(19) Incorporated by
reference to
Exhibit 10(a) to
the Company's
Form 8-K dated
September 13,
2004 (File no.
0-17972).

(20) Incorporated by
reference to
Item 1.01 of the
Company's Form
8-K dated
September 27,
2005 (File no.
0-17972).

(21) Incorporated by
reference to
Exhibit 14 to the
Company's Form
10-K for the
year ended
September 30,
2003 (File no.
0-17972).

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SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) 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.

DIGI INTERNATIONAL INC.

December 8, 2005

By: /s/ Joseph T. Dunsmore
Joseph T. Dunsmore
President, Chief Executive Officer,
Chairman, and Director

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

December 8, 2005

/s/ Joseph T. Dunsmore
Joseph T. Dunsmore
President, Chief Executive Officer,
Chairman, and Director (Principal
Executive Officer)

December 8, 2005

/s/ Subramanian Krishnan
Subramanian Krishnan
Senior Vice President, Chief Financial
Officer and Treasurer (Principal Financial
and Accounting Officer)

GUY C. JACKSON
KENNETH E.
MILLARD
MYKOLA MOROZ
WILLIAM N.
PRIESMEYER
BRADLEY J.
WILLIAMS

A majority of the Board of Directors*

*Subramanian Krishnan, by signing his name hereto, does hereby sign this document on behalf of each of the above named directors of the Registrant pursuant to Powers of Attorney duly executed by such persons.

December 8, 2005

/s/ Subramanian Krishnan
Subramanian Krishnan
Attorney-in-fact

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| 10(n) | Amendments to Director Compensation | Incorporated by Reference |
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| 14 | Code of Ethics | Incorporated by Reference |
| 21 | Subsidiaries of the Company | Incorporated by Reference |
| 23 | Consent of Independent Registered Public Accounting Firm | Incorporated by Reference |
| 24 | Powers of Attorney | Incorporated by Reference |
| 31(a) | Rule 13a-14(a)/15d-14(a) Certification of Chief Executive Officer | Filed Electronically |
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