

NEOMEDIA TECHNOLOGIES INC  
Form DEF 14A  
March 05, 2010

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

SCHEDULE 14A  
(Rule 14a-101)

INFORMATION REQUIRED IN PROXY STATEMENT

SCHEDULE 14A INFORMATION

Proxy Statement Pursuant To Section 14(a) of the  
Securities Exchange Act of 1934

Filed by the Registrant  x  
Filed by a Party other than the Registrant  ..

Check the appropriate box:

- Preliminary Proxy Statement  
 Confidential, for use of the Commission only (as permitted by Rule 14a-6(e)(2))  
 Definitive Proxy Statement  
 Definitive additional materials  
 Soliciting material under Rule 14a-12

NEOMEDIA TECHNOLOGIES, INC.  
(Name of Registrant as Specified in Charter)

Payment of filing fee (Check the appropriate box):

- No fee required.  
 Fee computed on the table below per Exchange Act Rules 14a-6(i)(1) and 0-11.
- (1) Title of each class of securities to which transaction applies:  
(2) Aggregate number of securities to which transaction applies:  
(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11  
(4) Proposed maximum aggregate value of transaction:  
(5) Total fee paid:  
 Fee paid previously with preliminary materials:  
 Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the form or schedule and the date of its filing.
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(2) Form, Schedule or Registration Statement No.:  
(3) Filing Party:  
(4) Date Filed:
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NEOMEDIA TECHNOLOGIES, INC.  
Two Concourse Parkway, Suite 500  
Atlanta, Georgia 30328

Dear stockholder:

You are cordially invited to attend a special meeting (the "Meeting") of the stockholders of NeoMedia Technologies, Inc., a Delaware corporation (the "Company"). The Meeting will be held on March 30, 2010, at 11:00 a.m., local time, at the Marriot Courtyard Atlanta Perimeter Center, 6250 Peachtree - Dunwoody Road, Atlanta, Georgia 30328.

Your vote is important. We encourage you to vote your proxy, as directed on the proxy card, either on the Internet at [www.wwstr.com](http://www.wwstr.com) or by mailing in your enclosed proxy card so that your shares will be presented and voted at the meeting even if you cannot attend. Accordingly, please return your proxy as soon as possible.

We hope to see you at the meeting.

Sincerely,

/s/Iain A. McCready  
Iain A. McCready  
Chief Executive Officer

Atlanta, Georgia  
March 5, 2010

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NEOMEDIA TECHNOLOGIES, INC.  
Two Concourse Parkway, Suite 500  
Atlanta, Georgia 30328

NOTICE OF SPECIAL MEETING OF STOCKHOLDERS  
TO BE HELD MARCH 30, 2010, AT 11:00 A.M.

NOTICE IS HEREBY GIVEN that a special meeting (the "Meeting") of stockholders of NeoMedia Technologies, Inc., a Delaware corporation (the "Company"), will be held on March 30, 2010 at 11:00 a.m., local time, at the Marriot Courtyard Atlanta Perimeter Center, 6250 Peachtree - Dunwoody Road, Atlanta, Georgia 30328, Atlanta, Georgia 30328, for the following purposes, as more fully described in the attached Proxy Statement:

1. To approve an amendment to the Company's Certificate of Incorporation to authorize a 1 share for 100 shares reverse split of the Company's outstanding common stock ("Common Stock");
2. To approve an amendment to the Company's Certificate of Incorporation to fix the amount of authorized shares of Common Stock at 5,000,000,000 shares;
3. To approve an amendment to the Company's Certificate of Incorporation to effect a decrease in the par value of Common Stock from \$0.01 to \$0.001; and
4. To consider and act on any other matters that may properly come before the Meeting or any postponement or adjournment thereof.

The Company's Board of Directors has fixed the close of business on February 1, 2010 as the record date (the "Record Date") for the determination of the stockholders entitled to notice of, and to vote at, the Meeting or any postponement or adjournment thereof. Only those stockholders of record of the Company as of the close of business on the Record Date will be entitled to vote at the Meeting or any postponement or adjournment thereof.

The Company's Board of Directors is making this proxy solicitation. Subject to the restrictions described in the attached Proxy Statement, all shares of Common Stock that are presented by properly executed and unrevoked proxies received by the Company's selected vendor (Worldwide Stock Transfer, LLC) to tabulate the vote of the Company's common stockholders, prior to the Meeting, will be voted, and all shares of the Company's Series D Convertible Preferred Stock that are presented by properly executed and unrevoked proxies received by the Company, prior to the Meeting, will be voted.

A complete list of stockholders entitled to vote at the Meeting will be open for examination by any stockholder of record during ordinary business hours commencing two days after the date of this notice at the Company's offices located at Two Concourse Parkway, Suite 500, Atlanta, Georgia 30328.

**IMPORTANT**

All stockholders entitled to vote are cordially invited to attend the Meeting in person. Whether or not you plan to attend the Meeting, please sign and return the enclosed proxy card (the "Proxy") as promptly as possible in the envelope enclosed for your convenience. Should you receive more than one Proxy because your shares are registered in different names and addresses, each Proxy should be signed and returned to ensure that all your shares will be voted. You may also vote via the Internet at [www.wwstr.com](http://www.wwstr.com), as directed on the Proxy. You may revoke your Proxy at any time prior to the Meeting by executing and submitting a Proxy bearing a later date. If you attend the Meeting and vote by ballot, your Proxy will be revoked automatically and only your vote at the Meeting will be counted.

By Order of the Board of Directors,

/s/Iain A. McCready

Iain A. McCready

Chief Executive Officer

March 5, 2010

YOUR VOTE IS VERY IMPORTANT, REGARDLESS OF THE NUMBER OF SHARES YOU OWN. PLEASE READ THE ATTACHED PROXY STATEMENT CAREFULLY, AND, AS SOON AS POSSIBLE, COMPLETE, SIGN AND DATE THE ENCLOSED PROXY CARD AS PROMPTLY AS POSSIBLE AND RETURN IT IN THE ENCLOSED ENVELOPE, OR, IF YOU ARE A COMMON STOCKHOLDER, YOU MAY ALSO VOTE YOUR PROXY VIA INTERNET.

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## PROXY STATEMENT

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APPENDIX A – PROXY CARD SPECIMEN

EXHIBIT A – FORM OF CERTIFICATE OF AMENDMENT TO CERTIFICATE OF INCORPORATION

EXHIBIT B – MARKED COPY OF CHANGES TO CERTIFICATE OF INCORPORATION

NEOMEDIA TECHNOLOGIES, INC.  
Two Concourse Parkway, Suite 500  
Atlanta, Georgia 30328

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PROXY STATEMENT

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This Proxy Statement contains information related to the special meeting (the “Meeting”) of stockholders of NeoMedia Technologies, Inc., a Delaware corporation (the “Company”), to be held on March 30, 2010, at 11:00 a.m., local time, at the Marriot Courtyard Atlanta Perimeter Center, 6250 Peachtree - Dunwoody Road, Atlanta, Georgia 30328, Atlanta, Georgia 30328, and any postponements or adjournments thereof. The Company is making this proxy solicitation. It is anticipated that this Proxy Statement and the enclosed proxy card (the “Proxy”) will be sent to the Company’s stockholders on or about February 19, 2010.

ABOUT THE MEETING

What is the purpose of the Meeting?

At the Meeting, stockholders will act upon the matters outlined in the “Notice of Special Meeting of Stockholders”, which appears as the cover page of this Proxy Statement, including (1) the approval of an amendment to the Company’s Certificate of Incorporation to authorize a 1 share for 100 shares reverse split of the Company’s outstanding common stock, par value \$0.01 per share (“Common Stock”), (2) the approval of an amendment to the Company’s Certificate of Incorporation to fix the amount of authorized shares of the Company’s common stock at 5,000,000,000 shares, (3) the approval of an amendment to the Company’s Certificate of Incorporation to decrease the par value of the Company’s common stock from \$0.01 to \$0.001, and (4) any other matters that may properly come before the Meeting or any postponement or adjournment thereof.

Who is entitled to vote?

Only stockholders of record on the close of business on February 1, 2010 (the “Record Date”), are entitled to receive notice of the Meeting and to vote the shares of Common Stock, shares of Series C convertible preferred stock, par value \$0.01 per share (“Series C Preferred Stock”) and shares of Series D convertible preferred stock, par value \$0.01 per share (“Series D Preferred Stock”), that they held on the Record Date at the Meeting, or any postponements or adjournments thereof. At the Meeting, the holders of the Common Stock and the Series D Preferred Stock may vote on all matters presented to the holders of Common Stock and will vote together as a class. Each outstanding share of Common Stock entitles the holder to one vote. Generally, each outstanding share of Series C Preferred Stock (on an as converted basis as described below) entitles the holder to the number of votes equal to the number of shares of Common Stock issuable upon conversion of the Series C Preferred Stock. However, due to contractual restrictions, currently, no shares of Series C Preferred Stock can be converted into shares of Common Stock or voted at the Meeting. From January 5, 2010 until April 5, 2010, each share of Series D Preferred Stock entitles its holder to one hundred thousand (100,000) votes per share of Series D Preferred Stock voting together with the Common Stock.

As of the Record Date, there were 2,267,567,835 shares of Common Stock, 8,642 shares of Series C Preferred Stock, and 25,000 shares of Series D Preferred Stock issued and outstanding. Due to contractual restrictions on the convertibility of Series C Preferred Stock and related voting rights, the current holders of Series C Preferred Stock are not entitled to cast any votes at the Meeting with respect to such Series C Preferred Stock. On an as converted basis,



the holders of Series D Preferred Stock are entitled to cast votes equivalent to an aggregate of 2,500,000,000 shares of Common Stock. Accordingly, there are a total of 4,767,567,835 shares entitled to vote at the Meeting. For information regarding security ownership by management and by 5% or greater stockholders, see “Security Ownership of Certain Beneficial Owners and Management of the Company,” below.

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Who can attend the Meeting?

All stockholders of the Company as of the Record Date, or their duly appointed proxies, may attend the Meeting. Seating, however, is limited. Admission to the meeting will be on a first-come, first-serve basis. Registration will begin at 10:00 a.m. and seating will begin at 10:30 a.m. Each stockholder will be required to present valid picture identification, such as a driver's license or passport. Cameras, recording devices and other electronic devices will not be permitted at the Meeting.

What constitutes a quorum?

One-third (1/3) of the issued and outstanding shares entitled to vote, represented in person or by Proxy, constitutes a quorum for the Meeting.

How do I vote by Proxy?

Follow the instructions on the enclosed Proxy to vote on each proposal to be considered at the Meeting. Sign and date the Proxy and mail it back to the Company in the enclosed envelope. If you own shares of Common Stock as of the Record Date then you may also vote with respect to those shares by Internet as described in the Proxy. The proxy holders named on the Proxy will vote your shares as you instruct. If you sign and return the Proxy but do not vote on a proposal, the proxy holders will vote for you on that proposal.

What if I do not specify how my shares are to be voted?

For "Proposal No. 1 – Reverse Stock Split of Outstanding Common Stock", if you submit a Proxy but do not indicate any voting instructions, your shares will be counted as a vote for the amendment of the Company's Certificate of Incorporation to authorize a 1 share for 100 shares reverse split of the outstanding Common Stock. For "Proposal No. 2 – Adjustment of Authorized Common Stock", if you submit a Proxy but do not indicate any voting instructions, your shares will be counted as a vote for the amendment of the Company's Certificate of Incorporation to fix the amount of authorized Common Stock at 5,000,000,000 shares. For "Proposal No. 3 – Change in Par Value", if you submit a Proxy but do not indicate any voting instructions, your shares will be counted as a vote for the amendment of the Company's Certificate of Incorporation to decrease the par value of the Common Stock from \$0.01 to \$0.001.

Can I change my vote after I return my proxy card?

Yes. Even after you have submitted your Proxy, you may change your vote at any time before the Proxy is exercised by filing with the Secretary of the Company either a notice of revocation or a duly executed Proxy bearing a later date. The powers of the proxy holders will be suspended if you attend the Meeting in person and so request, although attendance at the Meeting will not by itself revoke a previously granted Proxy.

What if other matters come up at the Meeting?

The matters described in this Proxy Statement are the only matters we know will be voted on at the Meeting. If other matters are properly presented at the Meeting, the proxy holders will vote your shares as they see fit in accordance with any applicable laws.

Can I vote in person at the Meeting rather than by completing the Proxy Card?

Although we encourage you to complete and return the Proxy to ensure that your vote is counted, you can attend the Meeting and vote your shares in person by ballot.



What do I do if my shares are held in “street name”?

If you hold your shares in “street name” through a broker or other nominee, and you do not tell the nominee by the tenth day preceding the Meeting, how to vote your shares, the nominee can vote them as it sees fit only on matters that are determined to be routine, and not on any other proposal. None of the matters presented in this Proxy Statement are “routine” items. If you do not give your broker or nominee specific instructions, your shares may not be voted on those matters and will not be counted in determining the number of shares necessary for approval. Shares represented by such “broker non-votes,” however, will be counted in determining whether there is a quorum. If you hold your shares in street name, you will need to bring a copy of a brokerage statement reflecting your stock ownership as of the Record Date and check in at the registration desk at the Meeting. If you intend to vote your street name shares in person at the Meeting, you will need to obtain a “Legal Proxy” from your brokerage firm.

How are votes counted?

We will hold the Meeting if holders of one-third (1/3) of the total shares of voting capital stock of the Company either sign and return their Proxies or attend the Meeting. If you sign and return your Proxy, your shares will be counted to determine whether the Company has a quorum even if you abstain or fail to vote on any of the proposals listed on the Proxy.

Who pays for this proxy solicitation?

The Company will pay all the costs of solicitation, including the preparation, assembly, printing and mailing of this Proxy Statement, the Proxy, and any additional solicitation materials furnished to stockholders. Stockholders will not be charged fees for voting via Internet. Copies of solicitation materials will be furnished to brokerage houses, fiduciaries, and custodians holding shares in their names that are beneficially owned by others so that they may forward this solicitation material to such beneficial owners. In addition, the Company may reimburse such persons for their costs in forwarding the solicitation materials to such beneficial owners. In addition to sending you these materials, some of the Company’s employees may contact you by telephone, by mail, or in person. None of these employees will receive any extra compensation for doing this.

What vote is required to approve each item?

Amendment to Certificate of Incorporation – Reverse Stock Split of Outstanding Common Stock. For the approval of an amendment to the Company’s Certificate of Incorporation to authorize a 1 share for 100 shares reverse split of the Company’s outstanding Common Stock, the affirmative vote of a majority, as of the Record Date, of the outstanding shares of Common Stock and Series D Preferred Stock (on an as converted basis) voting together as a single class will be required. A properly executed Proxy marked “Abstain” with respect to such matter will not be voted, although it will be counted for purposes of determining whether there is a quorum. Accordingly, an abstention will have the effect of a negative vote.

Amendment to Certificate of Incorporation – Adjustment of Authorized Common Stock. For the approval of an amendment to the Company’s Certificate of Incorporation to fix the amount of authorized Common Stock at 5,000,000,000 shares, the affirmative vote of a majority, as of the Record Date, of the outstanding shares of Common Stock and Series D Preferred Stock (on an as converted basis) voting together as a single class will be required. A properly executed Proxy marked “Abstain” with respect to such matter will not be voted, although it will be counted for purposes of determining whether there is a quorum. Accordingly, an abstention will have the effect of a negative vote.

Amendment to Certificate of Incorporation – Change in Par Value. For the approval of an amendment to the Company’s Certificate of Incorporation to decrease the par value of the Common Stock from \$0.01 to \$0.001, the affirmative vote

of a majority, as of the Record Date, of the outstanding shares of Common Stock and Series D Preferred Stock (on an as converted basis) voting together as a single class will be required. A properly executed Proxy marked "Abstain" with respect to such matter will not be voted, although it will be counted for purposes of determining whether there is a quorum. Accordingly, an abstention will have the effect of a negative vote.

Other Matters. For most other matters that properly come before the Meeting, the affirmative vote of a majority of shares of voting capital stock, present in person or represented by Proxy and voted at the Meeting, will be required. With respect to certain matters that may come before the Meeting a separate class vote of the Series C Preferred Stock or Series D Preferred Stock may be required. A properly executed Proxy marked "Abstain" with respect to any such matter will not be voted, although it will be counted for purposes of determining whether there is a quorum. Accordingly, an abstention will have the effect of a negative vote.

What are the Board's recommendations?

The recommendation of the Company's board of directors (the "Board") is set forth together with the description of each item in this Proxy Statement. In summary, the Board recommends a vote:

- For the approval of an amendment to the Company's Certificate of Incorporation to authorize a 1 share for 100 shares reverse split of the Company's outstanding Common Stock;
- For the approval of an amendment to the Company's Certificate of Incorporation to fix the amount of authorized shares of Common Stock at 5,000,000,000 shares;
- For the approval of an amendment to the Company's Certificate of Incorporation to decrease the par value of the Common Stock from \$0.01 to \$0.001; and

With respect to any other matter that properly comes before the Meeting, the proxy holders will vote as recommended by the Board or, if no recommendation is given, in their own discretion.

STOCKHOLDER PROPOSALS

PROPOSAL NO. 1 – AUTHORIZATION OF AN AMENDMENT TO THE COMPANY’S CERTIFICATE OF INCORPORATION TO AUTHORIZE A 1 SHARE FOR 100 SHARES REVERSE SPLIT OF THE COMPANY’S OUTSTANDING COMMON STOCK

Reverse Stock Split in General

As of February 1, 2010, we had 2,267,567,835 shares of our Common Stock outstanding and an additional 1,307,031,375 shares of Common Stock reserved for issuance upon the exercise of issued and outstanding options and warrants. The large number of shares of Common Stock outstanding combined with our low share price makes our Common Stock unattractive to investors. We believe that a reverse stock split of our outstanding Common Stock will have the effect of increasing both the visibility and marketability of our stock to future investors.

Our Board has adopted a resolution seeking authorization of our stockholders to amend our Certificate of Incorporation to effect a reverse split of our outstanding Common Stock at a ratio of 1-for-100 (the “Reverse Split”). If this proposal is approved by our stockholders at the Meeting, we may effect the Reverse Split, within one year after the Meeting. If we determine to effect the Reverse Split as proposed, we will file an amendment to our Certificate of Incorporation, as set forth in Exhibit A, with the Secretary of State of Delaware which will provide that our shares of Common Stock then issued and outstanding will be combined at a ratio of 1-for-100. Except for any changes resulting from the treatment of fractional shares, each stockholder will hold the same percentage of Common Stock outstanding immediately after the Reverse Split as such stockholder did immediately prior to the Reverse Split. We may abandon the proposed Reverse Split if our Board deems it advisable.

The number of outstanding shares of Series C Preferred Stock and Series D Preferred Stock will not change as a result of the Reverse Split. The conversion price of the Series C Preferred Stock and Series D Preferred Stock, however, will be adjusted as a result of the Reverse Split which will result in the number of shares of Common Stock issuable upon conversion of the Series C Preferred Stock and Series D Preferred Stock being reduced in proportion to the Reverse Split.

The following table presents the impact of Proposal 1, as well as the cumulative effect of Proposals 1 and 2 and the cumulative effect of Proposals 1, 2 and 3 on our Common Stock authorized, issued and outstanding, reserved for issuance and authorized but unissued, if such proposals are approved by our shareholders\*:

As of February 1, 2010	Effect of	Cumulative Effect of	Cumulative Effect of
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