

NEOMEDIA TECHNOLOGIES INC

Form 10-K

March 29, 2010

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

Form 10-K

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

Commission File Number 0-21743

NeoMedia Technologies, Inc.
(Exact name of registrant as specified in its charter)

Delaware	36-3680347
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

Two Concourse Parkway, Suite 500, Atlanta, GA 30328
(Address, including zip code, of principal executive offices)

678-638-0460
(Registrants' telephone number, including area code)

Securities Registered Under Section 12(b) of the Exchange Act:	Common Stock, par value \$.01 per share
Name of exchange on which registered:	The OTC Bulletin Board® (OTCBB)
Securities registered pursuant to Section 12(g) of the 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
Exchange Act. Yes No

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 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 during
the preceding 12 months (or such shorter period that the registrant was required to submit and post such files). 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, 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.

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 Exchange Act). Yes No

The aggregate market value of the common stock held by non-affiliates of the registrant as of June 30, 2009, the last business day of the registrant's most recently completed second fiscal quarter, was approximately \$29.2 million, based on the closing sale price for the registrant's common stock on that date. For purposes of determining this number, all officers and directors of the registrant are considered to be affiliates of the registrant. This number is provided only for the purpose of this report on Form 10-K and does not represent an admission by either the registrant or any such person as to the status of such person.

The number of outstanding shares of the registrant's Common Stock on March 22, 2010 was 2,267,567,835.

Documents Incorporated By Reference

NONE

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NeoMedia Technologies, Inc.

PART I

ITEM 1. Business

In this Annual Report on Form 10-K, unless otherwise indicated, the words “we,” “us,” and “our” refer to NeoMedia Technologies, Inc. and all entities owned or controlled by NeoMedia Technologies, Inc. All references to “NeoMedia” or the “Company” in this Annual Report mean NeoMedia Technologies, Inc., a Delaware corporation, and all entities owned or controlled by NeoMedia Technologies, Inc., except where it is made clear that the term only means the parent or a subsidiary company.

Overview

We are a Delaware corporation, founded in 1989 and based in Atlanta, Georgia. We provide the infrastructure to make mobile barcode scanning and its associated commerce easy, universal, and reliable – worldwide. Our barcode ecosystem products include our mobile barcode reading software, “NeoReader”, which reads and transmits data from 2D barcodes to its intended destination. Our code management “NeoSphere” and code clearinghouse “NeoRouter” platforms create, connect, record, and transmit the transactions embedded in the barcodes, like web-URLs, text messages (SMS), and telephone calls, ubiquitously and reliably. In order to provide complete mobile marketing solutions, we also offer barcode scanning hardware that reads barcodes displayed on mobile phone screens or printed media. We also provide infrastructure solutions to enable mobile ticketing and couponing programs – including scanner hardware and system support software for seamless implementation. This technology is supported by our patents. In addition, we have an open standards philosophy designed to make integration and use of the technology easy for handset manufacturers, mobile operators and advertisers; and the user experience safe, reliable and interoperable for consumers.

During 2008 and early 2009, we have made significant changes to strengthen our management team. In June 2008, Mr. Iain A. McCready became our Chief Executive Officer and Chairman of our Board of Directors; in September 2008, Mr. Michael W. Zima became our Chief Financial Officer and Secretary; in January 2009, Ms. Laura Marriott became a Member of our Board of Directors; and in March 2009, Mr. Dean Wood became our Vice President - Business Development.

During 2009 and early 2010, we have taken steps to build upon the developing barcode ecosystem based on the strengths of our patent portfolio. To accomplish this, we have entered into several licensing programs and successfully resolved a significant outstanding legal matter:

- On July 28, 2009, we entered into a non-exclusive patent licensing agreement with Mobile Tag, Inc. for machine-readable mobile codes under our patent portfolio. Under the terms of that agreement, we will receive a percentage of revenue generated by Mobile Tag through the use and licensing of our patent portfolio.
- On October 2, 2009, we entered into a four year agreement with Neustar, Inc. in which we granted to Neustar a non-exclusive license to a portion of our patent portfolio primarily for the purpose of establishing and providing registry and clearinghouse services within the a defined field of use and geographic territory. The terms of the license also granted to Neustar an exclusive right to grant to third parties royalty-bearing sub-licenses for the use of the same portion of our patent portfolio within the defined field of use and geographic territory. The license permits Neustar to grant sub-licenses for a period of not less than one year, up to a maximum of four years depending on the achievement by Neustar of certain milestones as set forth in the license agreement. In addition, Neustar will perform certain reservations, administration, billing and collection and other additional services for our benefit as

well as for the benefit of Neustar and the sub-licensees. On January 22, 2010 we amended this agreement to further expand our opportunities by including several of our patents and expanding the geographical territory covered by this agreement to include Mexico.

- On October 7, 2009, we entered into a four year agreement with Brand Extension Mobile Solutions, S.A., a Madrid (Spain) corporation (“BEMS”), in which we granted to BEMS a royalty bearing, and non-exclusive license to use the licensed platform in an approved field of use within a certain geographical territory. The licensed platform will support BEMS’s performance of exclusive commercial operations under a particular cooperation agreement between BEMS and Telefónica Internacional, S.A.U., a subsidiary of Spain’s Telefónica S.A., one of the world’s largest telecommunication companies. BEMS intends to use us as their prime vendor in connection with their agreement with Telefónica. The license agreement grants to BEMS the right to distribute our barcode reading software via download or through its inclusion in mobile devices. The license agreement also requires BEMS to purchase twenty-five of our barcode scanning hardware products to support testing and marketing of barcode and mobile barcode based ticketing and couponing activities.
- On October 16, 2009, we entered into a ten year settlement and license agreement with Scanbuy, Inc., in which we and Scanbuy settled all of our pending litigation against each other and granted non-exclusive licenses and a sublicense to each other. Pursuant to the terms of the agreement, we granted to Scanbuy a royalty bearing, non-exclusive license to use a portion of the Company’s patent portfolio within a defined field of use and in a geographic territory.
- On November 27, 2009 we entered into an agreement with Sony Ericsson Mobile Communications, AB, through which they have selected NeoMedia as their strategic 2D barcode partner. Sony Ericsson will begin shipping phones pre-loaded with our NeoReader barcode scanning application globally in the 1st half of 2010. The NeoReader will be pre-installed across all Sony Ericsson platforms.
- On February 12, 2010 we entered into an agreement with Neustar to participate in and to facilitate a leadership role in the 2010 Neustar Mobile Codes Pilot Program. The Program will combine all of the elements required to fulfill our goal of a seamless and interoperable barcode ecosystem and will allow advertisers to test the market and technology.

As of December 31, 2009, we had one active wholly-owned subsidiary: NeoMedia Europe, AG, (“NeoMedia Europe”) incorporated in Germany. In addition, there are several dormant subsidiaries which are listed in Exhibit 21.1.

Products and Services

We provide a complete suite of software and hardware for processing 2D barcodes in the mobile environment, and enabling applications in mobile marketing, mobile couponing, mobile ticketing and mobile payment.

Our barcode ecosystem includes software designed to read 2D barcodes using camera and web enabled wireless communications devices and products to create unique barcodes, to create and manage advertising campaigns using barcodes; to act as a gateway managing activity between consumers and advertisers, and to gather and interpret the results of advertising campaigns. These products include:

- NeoReader – a barcode scanning application that transforms mobile camera phones into universal barcode readers. Users simply launch the NeoReader application on their mobile phone, scan the barcode and are linked directly to a specific web page. There they can access real-time product or service information, download content or complete a mobile commerce transaction. Any product, magazine/newspaper, retail display or billboard with a 2D barcode provides direct access to the multimedia capability of the mobile web anytime, anywhere. NeoReader features our patented resolution technology with an ultra-small footprint and platform-independent algorithms. This application provides interoperability among 2D barcodes in the market and operates on a variety of handsets.
-

NeoReader Enterprise & Lavasphere Enterprise – software solutions for commercial applications where mobile devices are utilized to manage products through manufacturing or distribution channels. These applications equip mobile devices to read 1D and 2D barcodes with their built-in camera. The mobile devices become universal barcode readers, allowing users to “track and trace” products and services anytime, anywhere.

- These solutions are ideal tools for a variety of business applications including data collection, logistics, content linking, and accessing information on the go. They provide the ability to capture lifecycle data for products and services in real time and to share relevant data in a secure and selective manner.

- o NeoReader Enterprise: a standard solution utilizing our NeoReader technology to route transactions to a customer's existing mobile web application
- o Lavasphere Enterprise: a customized solution using LavaSphere barcode-reading technologies for functions that are too complex to be handled by a mobile web application

• NeoSphere - a web-based system that supports campaign management and allows users (typically agencies and advertisers) to easily develop, launch and manage a mobile barcode campaign by delivering three critical components:

- o Barcode creation tools
- o Campaign management tools
- o Reporting and analytics

NeoSphere offers a customizable feature that uses rules to deliver dynamic content to a single barcode based on preferences like language, gender, age and location.

• NeoMedia Code Routing Service – is used in conjunction with NeoSphere and includes an intelligent gateway configurable to support global interoperability and a barcode resolution server designed to retrieve and deliver any form of internet content to mobile phones worldwide. Our Code Resolution Service uniquely provides:

- o Interoperability with other campaign management systems
- o Access to all barcode-enabled handsets worldwide
- o Data tracking, collection, and monetization of each mobile transaction

• NeoMedia MSS – MSS is a completely stand-alone system supporting third-party ticketing/couponsing systems and databases as well as adding all missing components to existing mobile systems essential for the successful completion and fulfillment of mobile applications. Based on our customers' needs and requirements, we believe that we provide the best solution –

- o Integrating third-party ticketing and couponsing systems
- o Providing marketing databases and our own coupon system
- o Encrypting and sending codes to mobile phones
- o Decrypting and analyzing code contents
- o Enabling customer's own coupon and ticket configuration
- o Supplying statistics and information on mobile activities, and
- o Implementing and delivering customized hardware and software solutions

Our hardware products read, interpret and transmit barcodes and barcode information to facilitate related transactions. These products include:

- EXIO II - a multi-application smart scanner for mobile couponing and ticketing applications. The cutting-edge technology of the EXIO II smart scanner allows customers to redeem mobile tickets and coupons making it easy and affordable to use creative new mobile marketing text messaging programs to track and reach customers. EXIO II is the evolution of EXIO® and combines all the advantages of EXIO® with improved reading capabilities and a programmable Linux platform that was developed based on customer feedback we have received during our more than 10 years of operation. The EXIO II is the ideal tool for one-to-one marketing applications and highly targeted customer campaigns. With its color LCD touch-screen and video playback capability, the EXIO II can be customized to display targeted content and brand messages. Prior to 2009, we offered EXIO®, a complete solution including printer, display, keypad and GSM/GPRS module. EXIO® read and processed 2-D symbologies such as Data Matrix from mobile phone displays as well as printed 1D barcodes. Utilizing a high-speed Digital Signal Processor (DSP) and a high-resolution camera, EXIO® automatically recognizes 2D barcodes such as Data Matrix, sent as MMS (Multimedia Message Service), EMS (Enhanced Message Service) or Picture Message (Smart Message) to any compatible mobile phone.

- XELIA – a versatile desktop scanner that incorporates Honeywell Adaptus® Imaging Technology 5.0 to enable high-performance reading of 2D codes from mobile phone displays. Equipped with a high-speed Digital Signal Processor (DSP), XELIA automatically recognizes 2D codes sent as text messages (SMS, MMS or EMS) as well as printed 1D barcodes. It processes rapidly and with extreme accuracy. Its compact size and sleek design make XELIA ideal for counter-top use at a point-of-sale or service desk. It can also be used for sweepstakes, mobile advertising (tickets and coupons) and boarding passes. Prior to 2009, we offered our model MD-20 – a high-performance OEM code reader providing unparalleled flexibility in scanning 2-D symbologies such as Data Matrix from mobile phone displays as well as printed 1-D barcodes. Because of its compact size, speed and flexibility, MD-20 was the ideal high-performance fixed-position 2-D code reader for a wide range of applications where mobile code reading, mobile couponing, mobile ticketing and mobile marketing are required, thus enabling the phone to be used as the single universal mobile device.

Sales, Marketing and Distribution Relationships

We have worked to establish a network of direct salespeople, affiliates and business development personnel to market our suite of products and services. We market our products and services to potential customers primarily in the Americas and Europe.

Data Centers

As of December 31, 2009, we do not own any data centers. We have servers located in a data center in Miami, Florida, where our network infrastructure is supported by an outside vendor.

Proprietary Technology

Many of the products we sell to our customers rely on hardware and software technologies provided to us by third parties under license. Certain of our products and services combine these third party technologies with technologies that are proprietary to us. Our proprietary technology may be protected by patent law, copyright law, trade secret law and other forms of intellectual property protection. Our proprietary technology includes technologies that enable us to automate a number of back-end functions and technologies that allow customers to order, change and manage their accounts easily without technical expertise. Some of our proprietary technologies are unique and may not legally be utilized by competitors without a license from us. Although we believe that our suite of proprietary technologies offers customers significant benefits, we do not believe that our proprietary technologies are sufficient to deter competitors from providing competing products and services.

International Revenue

Revenues from our international customers totaled \$1.1 million and \$649,000 for the years ended December 31, 2009 and 2008, respectively. The revenues are denominated and received primarily in Euros.

Competition

We believe we have positioned ourselves to compete as a leader in mobile marketing solutions. However, within the mobile marketing industry there are a number of competitors, many of which are just beginning to appear, who offer parts of the mobile marketing barcode ecosystem. In general, due to the relative immaturity of the mobile marketing industry, small players have sprung up offering very specialized products and services.

As the mobile marketing industry matures, we expect consolidation as industry leaders emerge. Moreover, we believe we are well positioned at the onset due to our intellectual property, including many patents, on which our products and

services are based. We expect that our intellectual property will serve as a competitive advantage as this market matures.

Intellectual Property

We rely on a combination of laws (including patent, copyright, trademark, service mark and trade secret laws) and contractual restrictions to establish and protect proprietary rights in our services. As of December 31, 2009, we owned 35 patents spanning 15 countries and 27 additional patents are pending or in appeal. Our patents cover core concepts behind our techniques for linking the physical world to the electronic world. These patents cover various linkage methods including barcodes, RF/ID, Mag Stripe, Voice and other machine readable and keyed entry identifiers.

On June 9, 2009 we received an Ex Parte Reexamination Certificate from the United States Patent and Trademark Office for our United States Patent No. 6,199,048. The '048 patent was under reexamination at the request of third party Electronic Frontier Foundation, and the Patent Office ruled that the inventions as described in the claims, amended during the reexamination, are patentable over the prior art.

During 2009 we have licensed our patents to Mobile Tag and Neustar. We have also settled patent-related lawsuits and entered into a patent license agreement with Scanbuy. In addition, we have also entered into a platform license agreement with BEMS. In prior years we also settled patent-related lawsuits and licensed our patents to Digital Convergence, A.T. Cross Company, Symbol Technologies, Brandkey Systems Corporation, Virgin Entertainment Group, and AirClic, Inc. We are in discussions with other companies with regard to the licensing of our patents and our technology platforms. However, there can be no guarantee that any of these discussions will result in future revenues.

We have ongoing relationships with several law firms specializing in intellectual property licensing and litigation. These firms assist us in seeking out potential licensees of our intellectual property portfolio, including any resulting litigation.

We have entered into confidentiality and other agreements with our employees and contractors, including agreements in which the employees and contractors assign their rights in inventions to us. We have also entered into nondisclosure agreements with our suppliers, distributors and some customers in order to limit access to and disclosure of our proprietary information. Nonetheless, neither the intellectual property laws nor contractual arrangements, nor any of the other steps we have taken to protect our intellectual property can ensure that others will not use our technology or that others will not develop similar technologies.

We license, or lease from others, many technologies used in our services. We expect that we and our customers could be subject to third-party infringement claims as the number of competitors grows. Although we do not believe that our technologies or services infringe the proprietary rights of any third parties, we cannot ensure that third parties will not assert claims against us in the future or that these claims will not be successful.

Periodically, we may be made aware that technology we have used in our operations may have infringed upon intellectual property rights held by others. We will evaluate all such claims and, if necessary and appropriate, seek to obtain licenses for the use of such technology. If we or our suppliers are unable to obtain licenses necessary to use intellectual property in our operations, we may be legally liable to the owner of such intellectual property. Moreover, even in those instances where we are justified in denying claims that we have infringed upon the intellectual property rights of others, we may nonetheless be forced to defend or settle legal actions taken against us relating to allegedly protected technology, and such legal actions may require us to expend substantial funds. See “Item 1A Risk Factors – We may be unable to protect our intellectual property rights and may be liable for infringing the intellectual property rights of others.”

Government Regulation

Existing or future legislation could limit the growth or use of the internet, mobile telecommunications and/or mobile advertising, which would curtail our revenue growth. Statutes and regulations directly applicable to internet communications, mobile commerce and mobile advertising are becoming more prevalent. The United States Congress and the European Union have passed laws regarding children’s online privacy, privacy in general, copyrights and taxation. The law remains largely unsettled even in areas where there has been legislative action. It may take years to determine whether and how existing laws governing intellectual property, privacy, libel and taxation apply to the internet, internet commerce, mobile commerce and mobile advertising. In addition, the growth and development of internet and mobile commerce may prompt calls for more stringent consumer protection laws.

Certain of our proprietary technology allows for the storage of demographic data from our users. The European Union has adopted directives addressing data privacy that may limit the collection and use of certain information regarding internet and mobile device users. This directive may limit our ability to collect and use information collected by our technology in certain European countries. In addition, the Federal Trade Commission and several state governments have investigated the use by certain internet companies of personal information. We could incur significant additional expenses if new regulations regarding the use of personal information are introduced or if our privacy practices are investigated.

Employees

As of March 22, 2010, we had 23 employees, including 10 employees managed from our headquarters in Atlanta, Georgia, and 13 employees managed from our offices in Würseln, Germany. None of our employees are represented by a labor union or bound by a collective bargaining agreement. We believe that our employee relations are good.

Research and Development

We have incurred \$1.4 million and \$2.0 million in research and development expenses during the years ended December 31, 2009 and 2008, respectively. None of these expenses were directly borne or reimbursed by our customers.

ITEM 1A. Risk Factors

You should carefully consider the following factors and all other information contained in this Form 10-K before you make any investment decisions with respect to our securities. The risks and uncertainties described below may not be the only risks we face.

Risks Related to Our Business

We have incurred losses since inception and could incur losses in the future, and we have a substantial accumulated deficit and a substantial working capital deficit, which means that we may not be able to continue operations.

We have incurred substantial operating losses since inception, and could continue to incur substantial losses for the foreseeable future. To succeed, we must develop new client and customer relationships and substantially increase our revenue derived from improved products and additional value-added services. We have expended, and to the extent we have available financing, we intend to continue to expend, substantial resources to develop and improve our products, increase our value-added services and to market our products and services. These development and marketing expenses must be incurred well in advance of the recognition of revenue. As a result, we may not be able to achieve or sustain profitability. A number of factors could increase our operating expenses, such as:

- adapting corporate infrastructure and administrative resources to accommodate additional customers and future growth;
 - developing products, distribution, marketing, and management for the broadest possible market;
 - broadening customer technical support capabilities;
 - developing or acquiring new products and associated technical infrastructure;
 - developing additional indirect distribution partners;
 - increased costs from third party service providers;
 - improving data security features; and
 - legal fees and settlements associated with litigation and contingencies.

To the extent that increases in operating expenses are not offset by increases in revenues, our operating losses will increase.

The accompanying consolidated financial statements have been prepared in conformity with United States generally accepted accounting principles (“US GAAP”), which contemplate our continuation as a going concern. Net loss for the years ended December 31, 2009 and 2008 was \$67.4 million and \$8.0 million, respectively. Net cash used by operations was \$4.2 million and \$6.7 million for the years ended December 31, 2009 and 2008, respectively. We also have an accumulated deficit of \$277.0 million and a working capital deficit of \$124.6 million as of December 31, 2009, much of which is related to the derivative value of our financing instruments including \$47.6 million related to the fair value of warrants and those debentures that are recorded as hybrid financial instruments, and \$63.5 million related to the amortized cost carrying value of certain of our debentures and the fair value of the associated derivative liabilities.

We have a continuing obligation as of December 31, 2009 of \$4.5 million, dating from 2006, relating to a purchase price guarantee associated with a previous acquisition, which was later sold.

The items discussed above raise substantial doubts about our ability to continue as a going concern.

We do not have any commitments to receive capital, and we need to raise additional funds in order to continue our operations.

We currently do not have sufficient cash to sustain us for the next twelve months. We will require additional financing in order to execute our operating plan and continue as a going concern. Our management's plan is to attempt to secure adequate funding to bridge the commercialization of our barcode ecosystem business. We cannot predict whether this additional financing will be in the form of equity, debt, or another form and we may not be able to obtain the necessary additional capital on a timely basis, on acceptable terms, or at all. We believe that we can obtain additional financing, but in the event that these financing sources do not materialize, or that we are unsuccessful in increasing our revenues and profits, we may be unable to implement our current plans for expansion, repay our debt obligations as they become due or continue as a going concern, any of which circumstances would have a material adverse effect on our business, prospects, financial condition and results of operations.

During 2009, our lender YA Global Investments, L.P. ("YA Global") provided us with financing from time to time, totaling \$3.3 million. During 2010 YA Global has provided us with an additional \$2.5 million in financing. Should YA Global choose not to provide us with continued capital financing, as they have in the past, or if we do not find alternative sources of financing to fund our operations, or if we are unable to generate significant product revenues, we only have sufficient funds to sustain our current operations through approximately April 30, 2010.

The financial statements do not include any adjustments relating to the recoverability and reclassification of recorded asset amounts or the amounts and classification of liabilities that might be necessary, should we be unable to continue as a going concern.

Our management and Board of Directors may be unable to execute their plans to turn around the Company, grow our revenues and achieve profitability and positive cash flows, which could cause us to discontinue our operations.

During 2008 and early 2009, we made significant changes to strengthen our management team. In June 2008, Mr. Iain A. McCready became our Chief Executive Officer and Chairman of our Board of Directors; in September 2008, Mr. Michael W. Zima became our Chief Financial Officer and Secretary; in January 2009, Ms. Laura Marriott became a Member of our Board of Directors; and in March 2009, Mr. Dean Wood became our Vice President - Business Development. If our management and Board of Directors are unable to attract and retain management to execute our plans, then we may fail to grow our revenues, contain costs and achieve profitability and positive cash flows.

Because our historical financial information is not representative of our future results, investors and analysts will have difficulty analyzing our future earnings potential.

Prior to 2008, our operations included other lines of business which have since been disposed of. Consequently, our historical results are not representative of future expected operating results. We have also recognized significant charges and expenditures in the past for impairment charges and discontinued operations. Because these items are not recurring, it is more difficult for investors to predict future results.

We have material weaknesses in our internal control over financial reporting that may prevent us from being able to accurately report our financial results or prevent fraud, which could harm our business and operating results.

Effective internal controls are necessary for us to provide reliable and accurate financial reports and prevent fraud. In addition, Section 404 under the Sarbanes-Oxley Act of 2002 requires that we assess the design and operating effectiveness of internal control over financial reporting. If we cannot provide reliable and accurate financial reports and prevent fraud, our business and operating results could be harmed. We have in the past discovered, and may in the future discover, areas of our internal controls that need improvement. We have identified material weaknesses in our internal control as of December 31, 2009. These matters and our efforts regarding remediation of these matters, as well as efforts regarding internal controls, generally, are discussed in detail in Part II, Item 9A., Controls and Procedures, of this Annual Report. However, as our material weaknesses in our internal controls demonstrate, we cannot be certain that the remedial measures we have taken to date will ensure that we design, implement, and maintain adequate controls over our financial processes and reporting in the future. Additionally, because the requirements of Section 404 are ongoing and apply for future years, beginning in 2010, our auditors will be required to attest to the adequacy of our assessment and we cannot be certain that we or our independent registered public accounting firm will not identify additional deficiencies or material weaknesses in our internal controls in the future, in addition to those identified as of December 31, 2009. Remedying the material weaknesses that have been presently identified, and any additional deficiencies, significant deficiencies or material weaknesses that we or our independent registered public accounting firm may identify in the future, could in the future require us to incur significant costs, hire additional personnel, expend significant time and management resources or make other changes. Any delay or failure to design and implement new or improved controls, or difficulties encountered in their implementation or operation, could harm our operating results, cause us to fail to meet our financial reporting obligations, or prevent us from providing reliable and accurate financial reports or avoiding or detecting fraud. Disclosure of our material weaknesses, any failure to remediate such material weaknesses in a timely fashion or having or maintaining ineffective internal controls could cause investors to lose confidence in our reported financial information, which could have a negative effect on the trading price of our stock and our access to capital.

We guaranteed the value of our common stock issued in connection with a prior-year acquisition which resulted in a material cash liability.

Pursuant to the terms of a 2006 acquisition agreement, we were obligated to compensate the sellers in cash for the difference between the market price at the time the shares become saleable and the price at which the shares were valued for purposes of the acquisition agreement. At the time the shares became saleable, such obligation amounted to \$16.2 million.

During 2007, we issued 197,620,948 shares of our common stock, valued at \$9.4 million, as partial settlement of the \$16.2 million obligation, leaving a balance due of \$6.8 million. Also during 2007, we made payments of \$500,000 and negotiated a reduction of \$1.8 million in the obligation, leaving a purchase price guarantee balance due of \$4.5 million, the entire balance of which is currently due and payable. As of December 31, 2009, the parties to whom the balance is due have not come forward to claim or otherwise resolve the matter.

All of our assets are pledged to secure certain debt obligations, which if we fail to repay, could result in foreclosure upon our assets.

The repayment of our convertible debentures, issued to YA Global, is secured by substantially all of our assets. In the event we are unable to repay the secured convertible debentures, we could lose all of our assets and be forced to cease our operations. As of December 31, 2008, we received a waiver from YA Global, of several events of non-compliance related to the debentures and related financial instruments. On April 6, 2009, in connection with the amendment of our securities purchase agreement with YA Global, we were granted additional waivers. In the future

we could again become non-compliant with the provisions of the debentures and there can be no assurance that YA Global will continue to grant us waivers for past, present or future events of non-compliance.

There is limited information upon which investors can evaluate our business because the physical-world-to-internet market is rapidly changing and developing.

The physical-world-to-internet market in which we operate is a rapidly changing and developing market. Consequently, we have limited operating history upon which an investor may base an evaluation of our primary business and determine our prospects for achieving our intended business objectives. To date, we have had limited sales of our physical-world-to-internet products. We are prone to all of the risks inherent to the establishment of any new business venture, including unforeseen changes in our business plan. An investor should consider the likelihood of our future success to be highly speculative in light of our limited operating history in our primary market, as well as the limited resources, problems, expenses, risks, and complications frequently encountered by similarly situated companies in new and rapidly evolving markets, such as ours. To address these risks, we must, among other things:

maintain and increase our client base;

- implement and successfully execute our business and marketing strategy;
- continue to develop and upgrade our products;
- continually update and improve service offerings and features;
- respond to industry and competitive developments; and
- attract, retain and motivate qualified personnel.

We may not be successful in addressing these risks. If we are unable to do so, our business, prospects, financial condition, and results of operations would be materially and adversely affected.

Our future success depends on the timely introduction of new products and the acceptance of these new products in the marketplace.

Rapid technological change and frequent new product introductions are typical for the markets we serve. Our future success will depend in large part on continuous, timely development and introduction of new products that address evolving market requirements. If we fail to introduce new and innovative products, we may lose market share to our competitors, which may be difficult to regain. Any inability, for technological or other reasons, to successfully develop and introduce new products could materially and adversely affect our business.

Our common stock is deemed to be “penny stock” which may make it more difficult for investors to sell their shares due to suitability requirements.

Our common stock is deemed to be “penny stock” as that term is defined in Rule 3a51-1 promulgated under the Securities Exchange Act of 1934, as amended. These requirements may reduce the potential market for our common stock by reducing the number of potential investors. This may make it more difficult for investors in our common stock to sell shares to third parties or to otherwise dispose of them. This could cause our stock price to decline. Penny stocks are stocks:

with a price of less than \$5.00 per share;

that are not traded on a “recognized” national exchange;

· whose prices are not quoted on the NASDAQ automated quotation system (NASDAQ listed stock must still have a price of not less than \$5.00 per share); or

- in issuers with net tangible assets less than \$2 million (if the issuer has been in continuous operation for at least three years) or \$5 million (if in continuous operation for less than three years), or with average revenues of less than \$6 million for the last three years.

Broker-dealers dealing in penny stocks are required to provide potential investors with a document disclosing the risks of penny stocks. Moreover, broker-dealers are required to determine whether an investment in a penny stock is a suitable investment for a prospective investor.

Existing shareholders will experience significant dilution when certain investors convert their preferred stock to common stock, convert outstanding convertible debentures to common stock, or when the investors exercise their warrants and receive common stock under the investment agreement with the investors.

The issuance of shares of common stock pursuant to the conversion of our Series C and D convertible preferred stock, and the conversion of convertible debentures to common stock, or the exercise of warrants pursuant to our transactions with YA Global will have a dilutive impact on our stockholders. As a result, our net earnings per share could decrease in future periods, and the market price of our common stock could decline. In addition, the lower our stock price, the more shares of common stock we will have to issue for the conversion of preferred stock or the convertible debentures. If our stock price is lower, then existing stockholders would experience greater dilution.

Due to the accounting treatment of certain convertible preferred stock, warrants and convertible debenture instruments issued by us, fluctuations in our stock price could have a material impact on our results of operations.

During the years ended December 31, 2009 and 2008, the changes in the fair values of our hybrid financial instruments and derivative liabilities for our warrants and Series C Convertible Preferred Stock and debentures totaled a loss of \$58.0 million and a gain of \$1.2 million, respectively. We adjust the carrying value of these derivative instruments to market at each balance sheet date. As a result, we could experience significant fluctuations in our earnings in future periods from such gains or losses, based on movements in our share price.

We are uncertain of the success of our mobile business and the failure of this business would negatively affect the price of our stock.

We provide products and services that provide a link from physical objects, including printed material, to the mobile internet. We can provide no assurance that our mobile business will ever achieve profitability or that the products we develop will obtain market acceptance. In the event that our mobile business never achieves profitability or if our products fail to obtain market acceptance, our business, prospects, financial condition, and results of operations would be materially adversely affected.

A large percentage of our assets are intangible assets, which will have little or no value if our operations are unsuccessful.

At December 31, 2009, approximately 79% of our total assets were intangible assets and goodwill, consisting primarily of rights related to our patents, other intellectual property, and the excess of the purchase price over the fair value of tangible assets acquired in our purchase of NeoMedia Europe. If our operations are unsuccessful, these assets will have little or no value, which would materially adversely affect the value of our stock and the ability of our stockholders to recoup their investments in our stock.

We review our amortizable intangible assets for impairment when events or changes in circumstances indicate the carrying value may not be recoverable. Goodwill is required to be tested for impairment at least annually. We may be required to record a significant charge to earnings in our financial statements during the period in which any impairment of our goodwill or amortizable intangible assets is determined, resulting in an impact on results of operations.

Our products and services have limited history and may not result in success, which could have a materially adverse effect on our business.

To date, we have conducted limited marketing efforts directly relating to our technology products. Many of our marketing efforts with respect to these technologies have been largely untested in the marketplace, and may not result in materially increased sales of these products and services. To penetrate the markets in which we compete, we expect that we will have to exert significant efforts to create awareness of, and demand for, our products and services. To the extent funding is available, we intend to continue to expand our sales and marketing resources as the market continues to mature. Our failure to further develop our sales and marketing capabilities and successfully market our products and services would have a material adverse effect on our business, prospects, financial condition, and results of operations.

Our internally developed systems are inefficient and may put us at a competitive disadvantage.

We use internally developed technologies for a portion of our technologies required to interconnect our clients' and customers' physical-world-to-internet systems and hardware with our own. As we develop these systems in order to

integrate disparate systems and hardware on a case-by-case basis, these systems may require a significant amount of customization. Additionally, changes to the underlying operating systems used by our clients may cause us to expend resources to update our systems in order to conform to new or upgraded operating systems. Such client and customer-specific customization, or changes imposed by upgrades to operating systems, is time consuming and costly and may place us at a competitive disadvantage when compared with our competitors with more efficient systems.

We could fail to attract or retain key personnel.

Our future success will depend in large part on our ability to attract, train, and retain additional highly skilled executive level management, creative, technical, and sales personnel. Competition is intense for these types of personnel from other technology companies and more established organizations, many of which have significantly larger operations and greater financial, marketing, human, and other resources than we have. We may not be successful in attracting and retaining qualified personnel on a timely basis, on competitive terms, or at all. Our failure to attract and retain qualified personnel could have a material adverse effect on our business, prospects, financial condition, and results of operations.

We may be unable to protect our intellectual property rights and may be liable for infringing the intellectual property rights of others.

Our success in the physical-world-to-internet market is dependent upon our proprietary technology, including patents and other intellectual property, and on the ability to protect proprietary technology and other intellectual property rights. In addition, we must conduct our operations without infringing on the proprietary rights of third parties. We also intend to rely upon unpatented trade secrets and the know-how and expertise of our employees, as well as our patents. To protect our proprietary technology and other intellectual property, we rely primarily on a combination of the protections provided by applicable patent, copyright, trademark, and trade secret laws as well as on confidentiality procedures and licensing arrangements. Although we believe that we have taken appropriate steps to protect our unpatented proprietary rights, including requiring that our employees and third parties who are granted access to our proprietary technology enter into confidentiality agreements, we can provide no assurance that these measures will be sufficient to protect our rights against third parties. Others may independently develop or otherwise acquire patented or unpatented technologies or products similar or superior to ours.

We license from third parties certain software tools that are included in our services and products. If any of these licenses were terminated, we could be required to seek licenses for similar software from other third parties or develop these tools internally. We may not be able to obtain such licenses or develop such tools in a timely fashion, on acceptable terms, or at all. Companies participating in the software and internet technology industries are frequently involved in disputes relating to intellectual property. We may in the future be required to defend our intellectual property rights against infringement, duplication, discovery, and misappropriation by third parties or to defend against third party claims of infringement. Likewise, disputes may arise in the future with respect to ownership of technology developed by employees who were previously employed by other companies. Any such litigation or disputes could result in substantial costs to us, and a diversion of our resources. An adverse determination could subject us to significant liabilities to third parties, require us to seek licenses from, or pay royalties to, third parties, or require us to develop appropriate alternative technology. Some or all of these licenses may not be available to us on acceptable terms, or at all, and we may be unable to develop alternate technology at an acceptable price or at all. Any of these events could have a material adverse effect on our business, prospects, financial condition, and results of operations.

We are exposed to product liability claims and an uninsured claim could have a material adverse effect on our business, prospects, financial condition, and results of operations, as well as the value of our stock.

Many of our projects are critical to the operations of our clients' businesses. Any failure in a client's information system could result in a claim for substantial damages against us, regardless of our responsibility for such failure. We could, therefore, be subject to claims in connection with the products and services that we sell. We currently maintain product liability insurance. There can be no assurance that:

We have contractually limited our liability for such claims adequately or at all; or

- We would have sufficient resources to satisfy any liability resulting from any such claim.

The successful assertion of one or more large claims against us could have a material adverse effect on our business, prospects, financial condition, and results of operations.

We utilize a data center maintained by a third party, which could affect our ability to support our customers or our financial performance.

Many of the network services and computer servers utilized by us in our provision of services to customers are housed in a data center owned by a third-party vendor. In the future, we may house additional servers and hardware items in facilities owned or operated by other vendors.

A disruption in the ability of a data center to provide service to us could cause a disruption in service to our customers. A data center could be disrupted in its operations through a number of contingencies, including unauthorized access, computer viruses, accidental or intentional actions, electrical disruptions, and other extreme conditions. Although we believe we have taken adequate steps to protect our operations through our contractual arrangements with our data center, we cannot eliminate the risk of a disruption in service resulting from the accidental or intentional disruption in service by a data center. Any significant disruption could cause significant harm to us, including a significant loss of customers. In addition, a data center could raise its prices or otherwise change its terms and conditions in a way that adversely affects our financial performance or our ability to support our customers.

We will not pay cash dividends and investors may have to sell their shares in order to realize their investment.

We have not paid any cash dividends on our common stock and do not intend to pay cash dividends in the foreseeable future. We intend to retain future earnings, if any, for reinvestment in the development and marketing of our products and services. As a result, investors may have to sell their shares of common stock to realize their investment.

Some provisions of our certificate of incorporation and bylaws may deter takeover attempts, which may limit the opportunity of our stockholders to sell their shares at a premium to the then-current market price.

Some of the provisions of our Certificate of Incorporation and bylaws could make it more difficult for a third party to acquire us, even if doing so might be beneficial to our stockholders by providing them with the opportunity to sell their shares at a premium to the then-current market price. On December 10, 1999, our Board of Directors adopted a stockholders rights plan and declared a non-taxable dividend of one right to acquire our Series A Preferred Stock, par value \$0.01 per share, on each outstanding share of our common stock to stockholders of record on December 10, 1999 and each share of common stock issued thereafter until a pre-defined hostile takeover date. The stockholder rights plan was adopted as an anti-takeover measure, commonly referred to as a “poison pill”. The stockholder rights plan was designed to enable all stockholders not engaged in a hostile takeover attempt to receive fair and equal treatment in any proposed takeover of us and to guard against partial or two-tiered tender offers, open market accumulations, and other hostile tactics to gain control of us. The stockholders rights plan was not adopted in response to any effort to acquire control of us at the time of adoption. This stockholder rights plan may have the effect of rendering more difficult, delaying, discouraging, preventing, or rendering more costly an acquisition of us or a change in control of us. Certain stockholders, who were our founders, Charles W. Fritz, William E. Fritz and The Fritz Family Limited Partnership and their holdings, were exempted from the triggering provisions of our “poison pill” plan, as a result of the fact that, as of the plan’s adoption, their holdings might have otherwise triggered the “poison pill”.

In addition, our Certificate of Incorporation authorizes our Board of Directors to designate and issue preferred stock, in one or more series, the terms of which may be determined at the time of issuance by our Board of Directors, without further action by stockholders, and may include voting rights, including the right to vote as a series on particular matters, preferences as to dividends and liquidation, conversion, redemption rights, and sinking fund provisions.

We are authorized to issue a total of 25 million shares of preferred stock, par value \$0.01 per share. The issuance of any preferred stock could have a material adverse effect on the rights of holders of our common stock, and, therefore, could reduce the value of shares of our common stock. In addition, specific rights granted to future holders of preferred stock could be used to restrict our ability to merge with, or sell our assets to, a third party. The ability of our Board of Directors to issue preferred stock could have the effect of rendering more difficult, delaying, discouraging, preventing, or rendering more costly an acquisition of us or a change in our control.

Risks Relating To Our Industry

The security of the internet poses risks to the success of our entire business.

Concerns over the security of the internet and other electronic transactions, and the privacy of consumers and merchants, may inhibit the growth of the internet and other online services generally, especially as a means of conducting commercial transactions, which may have a material adverse effect on our physical-world-to-internet business.

We will only be able to execute our physical-world-to-internet business plan if internet usage and electronic commerce continue to grow.

Our future revenues and any future profits are substantially dependent upon the widespread acceptance and use of the internet and camera devices on mobile telephones. If use of the internet and camera devices on mobile telephones does not continue to grow or grows more slowly than expected, or if the infrastructure for the internet and camera devices on mobile telephones does not effectively support the growth that may occur, or does not become a viable commercial marketplace, our physical-world-to-internet business, and therefore our business, prospects, financial condition, and results of operations, could be materially adversely affected. Rapid growth in the use of, and interest in, the internet and camera devices on mobile telephones is a recent phenomenon, and may not continue on a lasting basis. In addition, customers may not adopt, and continue to use mobile telephones as a medium of information retrieval or commerce. Demand and market acceptance for recently introduced services and products over the mobile internet are subject to a high level of uncertainty, and few services and products have generated profits. For us to be successful, consumers and businesses must be willing to accept and use novel and cost efficient ways of conducting business and exchanging information.

In addition, the public in general may not accept the use of the internet and camera devices on mobile telephones as a viable commercial or information marketplace for a number of reasons, including potentially inadequate development of the necessary network infrastructure or delayed development of enabling technologies and performance improvements. To the extent that mobile phone internet usage continues to experience significant growth in the number of users, their frequency of use, or in their bandwidth requirements, the infrastructure for the mobile internet may be unable to support the demands placed upon it. In addition, the mobile internet and mobile interactivity could lose its viability due to delays in the development or adoption of new standards and protocols required to handle increased levels of mobile internet activity, or due to increased governmental regulation. Significant issues concerning the commercial and informational use of the mobile internet, and online network technologies, including security, reliability, cost, ease of use, and quality of service, remain unresolved and may inhibit the growth of internet business solutions that utilize these technologies. Changes in, or insufficient availability of, telecommunications services to support the internet, the web or other online services also could result in slower response times and adversely affect usage of the internet, the web and other online networks generally and our physical-world-to-internet product and networks in particular.

We may not be able to adapt as the internet, physical-world-to-internet, and customer demands continue to evolve.

We may not be able to adapt as the mobile internet and physical-world-to-internet markets and consumer demands continue to evolve. Our failure to respond in a timely manner to changing market conditions or client requirements would have a material adverse effect on our business, prospects, financial condition, and results of operations. The mobile internet and physical-world-to-internet markets are characterized by:

- rapid technological change;
- changes in user and customer requirements and preferences;
- frequent new product and service introductions embodying new technologies; and
- the emergence of new industry standards and practices that could render proprietary technology and hardware and software infrastructure obsolete.

Our success will depend, in part, on our ability to:

- enhance and improve the responsiveness and functionality of our products and services;
- license or develop technologies useful in our business on a timely basis;
- enhance our existing services, and develop new services and technologies that address the increasingly sophisticated and varied needs of our prospective or current customers; and
- respond to technological advances and emerging industry standards and practices on a cost-effective and timely basis.

We may not be able to compete effectively in markets where our competitors have more resources.

Although the market for physical-world-to-internet technology is relatively new, it is already highly competitive and characterized by an increasing number of entrants that have introduced or developed products and services similar to those offered by us. We believe that competition will intensify and increase in the near future. Our target market is rapidly evolving and is subject to continuous technological change. As a result, our competitors may be better positioned to address these developments or may react more favorably to these changes, which could have a material adverse effect on our business, prospects, financial condition, and results of operations.

Some of our competitors have longer operating histories, larger customer bases, longer relationships with clients, and significantly greater financial, technical, marketing, and public relations resources than we do. We may not successfully compete in any market in which we conduct or may conduct operations. We may not be able to penetrate markets or market our products as effectively as our better-funded, more-established competitors.

In the future, there could be government regulations and legal uncertainties that could harm our business.

Any new legislation or regulation, the application of laws and regulations from jurisdictions whose laws do not currently apply to our business, or the application of existing laws and regulations to the internet and other online services, could have a material adverse effect on our business, prospects, financial condition, and results of operations. Due to the increasing popularity and use of the internet, the web and other mobile and online services, federal, state, and local governments in the United States, Europe, several Latin American countries or other foreign governments may adopt laws and regulations, or amend existing laws and regulations, with respect to the internet or other online services covering issues such as taxation, user privacy, pricing, content, copyrights, distribution, and characteristics and quality of products and services. The growth and development of the market for electronic commerce may prompt calls for more stringent consumer protection laws to impose additional burdens on companies conducting business online. The adoption of any additional laws or regulations may decrease the growth of the internet, the web mobile telecommunications or other online services, which could, in turn, decrease the demand for our services and increase our cost of doing business, or otherwise have a material adverse effect on our business, prospects, financial condition, and results of operations. Moreover, the relevant governmental authorities have not resolved the applicability to the internet, the web and other online services of existing laws in various jurisdictions governing issues such as property ownership and personal privacy and it may take time to resolve these issues definitively.

Certain of our proprietary technology allow for the storage of demographic data from our users. In 2000, the European Union adopted a directive addressing data privacy that may limit the collection and use of certain information regarding internet users. This directive may limit our ability to collect and use information collected by our technology in certain European countries. In addition, the Federal Trade Commission and several state governments have investigated the use by certain internet companies of personal information. We could incur significant additional expenses if new regulations regarding the use of personal information are introduced or if our privacy practices are investigated.

ITEM 1B. Unresolved Staff Comments

None.

ITEM 2. Properties

As of December 31, 2009, we had leases on two facilities, our corporate headquarters in Atlanta, Georgia, and NeoMedia Europe's office in Würselen, Germany.

Our principal executive, development and administrative office is located in Atlanta, Georgia. We occupy approximately 10,000 square feet under a written sublease from an unaffiliated party which expires on September 29, 2011, with monthly rent of approximately \$16,000. On March 6, 2010 we entered into a sub-sublease with an unaffiliated party in which we have leased to them approximately 6,400 square feet of our space for approximately \$8,000 per month. Our net rental obligation under these agreements is therefore approximately \$8,000, per month through the expiration of our sublease term.

NeoMedia Europe operates from a facility in Würselen, Germany, where approximately 4,400 square feet are leased under the terms of a written lease which expires on September 30, 2010, with monthly rent of approximately \$6,000.

ITEM 3. Legal proceedings

We are involved in various legal actions arising in the normal course of business, both as claimant and defendant. Although it is not possible to determine with certainty the outcome of these matters, it is the opinion of management that the eventual resolution of the following legal actions is unlikely to have a material adverse effect on our financial

position or operating results.

Ephrian Saguy, iPoint – media, plc. and iPoint – media, Ltd. – On or around March 5, 2008, we received a summons and notice that the plaintiffs had commenced a third party action in the Magistrate Court in Tel-Aviv-Jaffa, Israel seeking damages from us and YA Global for breach of contract and unjust enrichment related to services provided by iPoint and investment in us by YA Global. We have entered into an assignment agreement with YA Global and have retained legal counsel in Israel to represent us. The Company plans to vigorously defend this lawsuit.

Rothschild Trust Holdings, LLC – On September 19, 2008, we received a complaint filed in the Circuit Court of the Eleventh Judicial Circuit, in and for Miami-Dade County, Florida, by Rothschild Trust Holding, LLC alleging we owed royalty payments for the use of certain patents. On February 25, 2009, we filed an answer to the complaint. On July 20, 2009 we entered into non-binding mediation and an interim agreement which required us to provide documentation for review by Rothschild Trust Holding, LLC. The non-binding mediation and interim agreement did not settle the matter. On January 4, 2010, we filed a motion for summary judgment seeking to terminate the litigation. We believe the complaint is without merit and we intend to vigorously defend against it.

The Hudson Consulting Group, LLC. – On June 30, 2009, we received from the Superior Court of Fulton County, in the State of Georgia a Notice of Filing of Foreign Judgment in favor of The Hudson Consulting Group, LLC, related to the judgment granted against us by the Superior Court, Judicial District of Middlesex, in the State of Connecticut, granted on August 22, 2008. In this judgment Hudson sought to collect disputed fees related to their recruiting services. The Notice of Filing seeks to collect on the judgment of approximately \$61,000 which was granted in Connecticut. We are seeking to settle this matter.

ITEM 4. (Removed and Reserved)

PART II

ITEM 5. Market for Registrant’s Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

Market Information

Our common shares trade on the Over-The-Counter Bulletin Board (“OTCBB”) under the symbol “NEOM.OB”. As of December 31, 2009, we had 2,267,567,835 common shares outstanding.

The following table summarizes the high and low closing sales prices per share of the common stock for the periods indicated as reported on the OTCBB:

	High	Low
2010:		
First quarter (to March 22, 2010)	\$ 0.0114	\$ 0.0045
2009:		
Fourth quarter	\$ 0.0237	\$ 0.0079
Third quarter	\$ 0.0174	\$ 0.0040
Second quarter	\$ 0.0321	\$ 0.0122
First quarter	\$ 0.0370	\$ 0.0012
2008:		
Fourth quarter	\$ 0.0030	\$ 0.0011
Third quarter	\$ 0.0109	\$ 0.0020
Second quarter	\$ 0.0075	\$ 0.0020
First quarter	\$ 0.0130	\$ 0.0065

The following table presents certain information with respect to our equity compensation plans as of December 31, 2009:

Number of	The Company will comply with relevant provisions of the Listing Rules in relation to each category of the Non-exempt Continuing Connected securities remaining
	Transactions.

APPROVAL BY INDEPENDENT SHAREHOLDERS

As CNOOC indirectly owns an aggregate of approximately 65.08% of the issued share capital of the Company, the Revised Cap for the Relevant Category and the Non-exempt Continuing Connected Transactions (including the relevant Proposed Caps) are subject to approval from the Independent Shareholders under the Listing Rules. In view of the interests of CNOOC held indirectly through OOGC and CNOOC BVI, OOGC, CNOOC BVI and their respective Associates will abstain from voting in relation to the resolutions approving the Revised Cap for the Relevant Category and the Non-exempt Continuing Connected Transactions (including the relevant Proposed Caps).

An Independent Board Committee has been formed to advise the Independent Shareholders in connection with the terms of the Revised Cap for the Relevant Category and the Non-exempt Continuing Connected Transactions (including the relevant Proposed Caps), and Somerley Limited has been appointed as the Independent Financial Adviser to advise the Independent Board Committee and the Independent Shareholders on the same.

GENERAL

The principal business activity of the Company is investment holding. The Group principally engages in the exploration, development, production and sales of crude oil, natural gas and other petroleum products.

CNOOC Group principally engages in the provision of technical services, logistic services, chemicals and fertilizer production, natural gas and power generation and financial services.

A circular containing, amongst other things, further information on the terms of the Continuing Connected Transactions, a letter from the Independent Board Committee, an opinion of Somerley Limited, the Independent Financial Advisor, together with a notice to convene the Extraordinary General Meeting to approve the Revised Cap for the Relevant Category and the Non-exempt Continuing Connected Transactions (including the relevant Proposed Caps), is expected to be issued to the Shareholders as soon as practicable.

DEFINITIONS

“2005 EGM”	the extraordinary general meeting of the Company held on 31 December 2005
“2005 Circular”	the circular issued by the Company to its Shareholders in respect of the Existing Waiver for certain continuing connected transactions dated 12 December 2005
“Associate”	has the meaning ascribed thereto under the Listing Rules
“BlueChemical”	China BlueChemical Ltd. a company incorporated in the PRC and a subsidiary of CNOOC, the H-shares of which are listed on the Stock Exchange
“Board”	the board of Directors of the Company
“CNOOC”	China National Offshore Oil Corporation the controlling shareholder of the Company indirectly holding approximately 65.08% of all of the Shares in issue as at the date hereof
“CNOOC BVI”	CNOOC (BVI) Limited, a company incorporated in the British Virgin Islands with limited liability, a wholly-owned indirect subsidiary of CNOOC and the controlling shareholder of the Company
“CNOOC Engineering”	Offshore Oil Engineering Co., Ltd. a company incorporated in the PRC and a subsidiary of CNOOC, the shares of which are listed on the Shanghai Stock Exchange
“CNOOC Group”	CNOOC and its subsidiaries (excluding the Group)
“COBGL”	CNOOC Oil Base Group Limited a company incorporated in the PRC and a subsidiary of CNOOC
“Company”	CNOOC Limited, a company incorporated in Hong Kong with limited liability, the shares of which are listed on the Stock Exchange and the New York Stock Exchange
“Comprehensive Framework Agreement(s)”	the Comprehensive Framework Agreements dated 8 November 2007 entered into between the Company and each of CNOOC, COSL, BlueChemical and CNOOC Engineering in relation to the Continuing Connected Transactions
“Continuing Connected Transactions”	the continuing connected transactions between the Group and CNOOC and/or its Associates as set out in the section headed “Continuing Connected Transactions under the Comprehensive Framework Agreements” in this announcement
“COSL”	China Oilfield Services Limited a company incorporated in the PRC and a subsidiary of CNOOC, the H-shares and A-shares of which are listed on the Stock Exchange and the Shanghai Stock Exchange, respectively

“Director(s)”	director(s) of the Company
“Extraordinary General Meeting”	the extraordinary general meeting of the Company to be held to approve the Revised Cap for the Relevant Category and the Non-exempt Continuing Connected Transactions (including the relevant Proposed Caps)
“Existing Waiver”	the approval by the Independent Shareholders in relation to the Non-exempt Continuing Connected Transactions (except the category "FPSO vessel leases" which were previously exempted from Independent Shareholders’ approval requirement as detailed in the 2005 Circular) between the Group and CNOOC and/or its Associates, subject to the conditions set out in the 2005 Circular
“Group”	the Company and its subsidiaries from time to time
“Hong Kong”	the Hong Kong Special Administrative Region of the PRC
“Independent Board Committee”	an independent committee of the Board comprising of Mr. Edgar W. K. Cheng, Mr. Chiu Sung Hong, Mr. Evert Henkes, Mr. Lawrence J. Lau and Mr. Tse Hau Yin, Aloysius, the independent non-executive Directors, formed for the purpose of advising the Independent Shareholders in relation to the Revised Cap for the Relevant Category and the Non-exempt Continuing Connected Transactions (including the relevant Proposed Caps)
“Independent Financial Adviser”	Somerley Limited, a corporation licensed to carry out type 1 (dealings in securities), type 4 (advising on securities), type 6 (advising on corporate finance) and type 9 (asset management) regulated activities under the Securities and Futures Ordinance (Chapter 571 of the Laws of Hong Kong), is the independent financial adviser to the Independent Board Committee and the Independent Shareholders
“Independent Shareholders”	Shareholders of the Company other than CNOOC and its Associates
“Listing Rules”	The Rules Governing the Listing of Securities on the Stock Exchange (as amended from time to time)
“Non-exempt Continuing Connected Transactions”	the Continuing Connected Transactions other than those under the categories of “Provision of marketing, management and ancillary services from CNOOC and/or its Associates to the Group” and “Provision of management, technical, facilities and ancillary services, including the supply of materials by the Group to CNOOC and/or its Associates”, as set out in the section headed “Continuing Connected Transactions under the Comprehensive Framework Agreements” in this announcement
“OOGC”	Overseas Oil and Gas Corporation, Ltd., a company incorporated in Bermuda with limited liability and a wholly-owned subsidiary of CNOOC.
“PRC”	The People’s Republic of China, excluding for the purpose of this announcement, Hong Kong, the Macau Special Administrative Region of the PRC and Taiwan
“Proposed Cap(s)”	the proposed maximum annual aggregate value for each of the Continuing Connected Transactions of the Company in respect of 2008 to 2010 as set out in the section headed “Proposed Caps and Rationale” in this announcement

“Relevant Category”

the “Provision of exploration and support services” category of continuing connected transactions between the Group and CNOOC and/or its Associates, which involves the provision of services by CNOOC and/or its

Associates to the Group on exploration operations

“Revised Cap”	the proposed maximum annual cap for the Relevant Category in respect of 2007, as set out in the section headed “Revised Cap and Rationale” in this announcement
“Shares”	share(s) of HK\$0.02 each in the share capital of the Company
“Shareholders”	registered holder(s) of the Shares
“Stock Exchange”	The Stock Exchange of Hong Kong Limited

By Order of the Board
CNOOC Limited
Kang Xin
Company Secretary

Hong Kong, 8 November 2007

As at the date of this announcement, the Board comprises of:

Executive Directors

Fu Chengyu (Chairman)
Zhou Shouwei
Wu Guangqi
Yang Hua

Independent Non-executive Directors

Edgar W. K. Cheng
Chiu Sung Hong
Evert Henkes
Lawrence J. Lau
Tse Hau Yin, Aloysius

Non-executive Directors

Luo Han
Cao Xinghe
Wu Zhenfang