

TRANSGENOMIC INC
Form 10-Q/A
August 12, 2008

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 10-Q/A

AMENDMENT No. 1

(Mark One)

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

For the Quarterly Period Ended June 30, 2008

Or

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

For the transition period from _____ to _____

Commission file number: 000-30975

TRANSGENOMIC, INC.

(Exact name of registrant as specified in its charter)

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Delaware
(State or other jurisdiction of
incorporation or organization)

911789357
(I.R.S. Employer
Identification No.)

12325 Emmet Street, Omaha, Nebraska
(Address of principal executive offices)

68164
(Zip Code)

(402) 452-5400

(Registrant's telephone number, including area code)

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 is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See definition of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Securities Exchange Act of 1934. (Check one):

Large accelerated filer

Accelerated filer

Non-accelerated filer (Do not check if a smaller reporting company)

Smaller Reporting Company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Securities Exchange Act of 1934) Yes No

As of August 6, 2008, the number of shares of common stock outstanding was 49,189,672.

EXPLANATORY NOTE

The registrant is filing this Amendment No. 1 to its report on Form 10-Q for the period ended June 30, 2008 (the Original 10-Q) for the purpose of correcting the line item entitled Comprehensive Income (Loss) in the Unaudited Condensed Consolidated Statements of Operations for the three and six months ended June 30, 2008 contained in the Original 10-Q. The dollar amounts reported incorrectly in the Original 10-Q were \$41,000 and \$79,000 for the three and six months ended June 30, 2008, respectively, and should have been reported as \$89,000 and \$127,000 for the three and six months ended June 30, 2008, respectively. The Unaudited Condensed Consolidated Statements of Operations for the three and six months ended June 30, 2008, as amended, are set forth below.

TRANSGENOMIC, INC. AND SUBSIDIARIES**UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS**

(Dollars in thousands except per share data)

| | Three Months Ended June 30, | | Six Months Ended June 30, | |
|---|--------------------------------|----------|------------------------------|-----------|
| | 2008 | 2007 | 2008 | 2007 |
| NET SALES | \$ 6,246 | \$ 6,272 | \$ 12,501 | \$ 11,494 |
| COST OF GOODS SOLD | 2,507 | 2,859 | 5,122 | 5,373 |
| Gross profit | 3,739 | 3,413 | 7,379 | 6,121 |
| OPERATING EXPENSES: | | | | |
| Selling, general and administrative | 3,091 | 3,067 | 6,066 | 6,047 |
| Research and development | 560 | 492 | 1,132 | 1,550 |
| Restructuring costs | 8 | 624 | 8 | 624 |
| | 3,659 | 4,183 | 7,206 | 8,221 |
| INCOME (LOSS) FROM OPERATIONS | 80 | (770) | 173 | (2,100) |
| OTHER INCOME (EXPENSE): | | | | |
| Interest income, net of interest expense | 25 | 79 | 58 | 141 |
| Other, net | | | (1) | 4 |
| Gain on sale of investment | | 938 | | 938 |
| | 25 | 1,017 | 57 | 1,083 |
| INCOME (LOSS) BEFORE INCOME TAXES | 105 | 247 | 230 | (1,017) |
| INCOME TAX EXPENSE | 4 | 14 | 7 | 19 |
| INCOME (LOSS) FROM CONTINUING OPERATIONS | 101 | 233 | 223 | (1,036) |
| INCOME (LOSS) FROM DISCONTINUED OPERATIONS, NET OF TAX | | (7) | | 66 |
| NET INCOME (LOSS) | \$ 101 | \$ 226 | \$ 223 | \$ (970) |
| COMPREHENSIVE INCOME (LOSS) | 89 | 405 | 127 | (815) |
| BASIC AND DILUTED INCOME (LOSS) PER SHARE: | | | | |
| From continuing operations | \$ 0.00 | \$ 0.00 | \$ 0.00 | \$ (0.02) |
| From discontinued operations | | 0.00 | | 0.00 |
| | \$ 0.00 | \$ 0.00 | \$ 0.00 | \$ (0.02) |

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| | | | | |
|--|------------|------------|------------|------------|
| BASIC WEIGHTED AVERAGE SHARES OUTSTANDING | 49,189,672 | 49,189,672 | 49,189,672 | 49,189,672 |
| DILUTED WEIGHTED AVERAGE SHARES OUTSTANDING | 49,301,010 | 49,189,672 | 49,301,010 | 49,189,672 |

See notes to unaudited condensed consolidated financial statements.

In addition, the registrant is filing this Amendment No. 1 to the Original 10-Q for the purpose of including matters to be reported under Item 4 (Submission of Matters to a Vote of Security Holders) of Part II of such report which were inadvertently omitted in the Original 10-Q. The matters which should have been reported under Item 4 of Part II of the Original 10-Q are set forth below.

Item 4. Submission of Matters to a Vote of Security Holders

We held our Annual Meeting of Stockholders on May 21, 2008 in Omaha, Nebraska, for the purpose of electing two Class II directors (for terms to expire in 2010) and one Class III director (for a term to expire in 2009). The following sets forth the results of the voting at the Annual Meeting:

| Director Nominee | Class/Term Ending | Votes For | Votes Withheld |
|-------------------------------|-------------------|------------|----------------|
| Jeffrey L. Sklar, M.D., Ph.D. | Class II /2010 | 35,016,901 | 272,714 |
| Gregory T. Sloma | Class II /2010 | 34,863,901 | 425,714 |
| David Pauluzzi | Class III /2009 | 35,013,351 | 276,264 |

Mr. Pauluzzi was elected as a director for the first time and Messrs. Sklar and Sloma were re-elected to the Board of Directors at the Annual Meeting. Each of our other directors, Craig J. Tuttle, Gregory J. Duman, Rodney S. Markin, M.D., Ph.D. and Frank R. Witney, Ph.D. continued in office as a director after the Annual Meeting.

No other changes were made to the Original 10-Q.

Item 6. Exhibits

(a) Exhibits

- 3.1 Third Amended and Restated Certificate of Incorporation of the Registrant (incorporated by reference to Exhibit 3.1 to Registrant's Report on Form 10-Q (Registration No. 000-30975) filed on November 14, 2005)
- 3.2 Amended and Restated Bylaws of the Registrant (incorporated by reference to Registrant's Report on Form 8-K (Registration No. 000-30975) filed on May 25, 2007)
- 4 Form of Certificate of the Registrant's Common Stock (incorporated by reference to Exhibit 4 to Registration Statement on Form S-1 (Registration No. 333-32174) filed on March 10, 2000)
- 31 Certifications pursuant to Section 302 of the Sarbanes-Oxley Act of 2002*
- 32 Certifications pursuant to Section 906 of the Sarbanes-Oxley Act of 2002*

* Filed herewith

SIGNATURES

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

TRANSGENOMIC, INC.

Date: August 12, 2008

By: /s/ CRAIG J. TUTTLE
Craig J. Tuttle

President and Chief Executive Officer