

OVERSTOCK.COM, INC  
Form 8-K  
December 17, 2009

# UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

## FORM 8-K

### CURRENT REPORT

*Pursuant to Section 13 or 15(d) of  
the Securities Exchange Act of 1934*

December 17, 2009 (December 11, 2009)

Date of Report (date of earliest event reported)

## Overstock.com, Inc.

(Exact name of Registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction of  
incorporation or organization)

**000-49799**  
(Commission File Number)

**87-0634302**  
(I.R.S. Employer  
Identification Number)

**6350 South 3000 East**  
**Salt Lake City, Utah 84121**

(Address of principal executive offices)

(801) 947-3100

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(Registrant's telephone number, including area code)

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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**Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers**

(e) On December 11, 2009 Overstock.com, Inc. (the Company) adopted a nonqualified deferred compensation plan for senior management (the Plan). The Plan allows participants to defer receipt of compensation otherwise payable to them under the Company's existing compensation plans, and also permits the Company to make discretionary contributions to participants' accounts. Participants will be permitted to select from a limited number of investment alternatives to be made available under the Plan. The Company's principal executive officer, principal financial officer and named executive officers are eligible to participate in the Plan. The Company has also adopted a substantially similar plan for its non-employee directors. Copies of both plans are filed herewith, and reference is made to the text of the plans for additional information regarding their terms.

**Item 9.01 Financial Statements and Exhibits**

- (d) **Exhibits.**
- 10.1 Nonqualified Deferred Compensation Plan
  - 10.2 Non-Employee Directors Nonqualified Deferred Compensation Plan

*Certain statements contained in this Form 8-K include statements that are forward-looking statements. There are risks that the Company faces that could cause actual results to be materially different from those contemplated by any such forward-looking statements. There also may be additional risks that the Company does not presently know or that it currently believes are immaterial which could also impair its business and results of operations. You are cautioned not to place undue reliance on these forward-looking statements, which speak only as of their dates. The Company undertakes no obligation to publicly update or revise any forward-looking statements, whether as a result of new information, future events or otherwise. Descriptions of the material risks the Company faces and additional information regarding factors that could materially affect results and the accuracy of the forward-looking statements contained herein may be found in the Company's Annual Report on Form 10-K for the year ended December 31, 2008 and in its Quarterly Report for the quarter ended September 30, 2009.*

**SIGNATURE**

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 hereunto duly authorized.

OVERSTOCK.COM, INC.

By: /s/ Stephen J. Chesnut  
Stephen J. Chesnut  
Senior Vice President, Finance

Date: December 17, 2009