

LIVEPERSON INC
Form 8-K
June 25, 2007

**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

Date of Report (Date of earliest event reported): **June 25, 2007**

LivePerson, Inc.

(Exact Name of Registrant as Specified in its Charter)

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| Delaware (State or other Jurisdiction of Incorporation) | 0-30141 (Commission File Number) | 13-3861628 (I.R.S. Employer Identification No.) |
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|---|----------------------------|
| 462 Seventh Avenue, New York, New York (Address of Principal Executive Offices) | 10018 (Zip Code) |
|---|----------------------------|

Registrant's telephone number, including area code: **(212) 609-4200**

(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))

Item 1.01.

Entry into a Material Definitive Agreement.

On June 25, 2007, LivePerson, Inc. entered into a definitive Agreement and Plan of Merger (the “Merger Agreement”) with Kasamba, Inc. (“Kasamba”), Kato MergerCo, Inc. (an indirect subsidiary of LivePerson) and Yoav Leibovich (as the Kasamba stockholders’ representative) to acquire Kasamba in a merger transaction pursuant to which Kasamba will become an indirect subsidiary of LivePerson (the “Merger”). Pursuant to the terms of the Merger Agreement, LivePerson will acquire all of the outstanding common stock of Kasamba and assume all of its outstanding options in exchange for an aggregate consideration of approximately \$40.0 million, consisting of \$9.0 million in cash and 4,754,601 shares of LivePerson common stock to be issued at the closing of the transaction, subject to certain adjustments.

The Merger Agreement contains customary representations, warranties and covenants. With the exception of certain matters, the indemnification obligations of the stockholders of Kasamba for breaches of representations and warranties, covenants and certain tax liabilities will be subject to a \$100,000 aggregate threshold, but once the aggregate amount of LivePerson’s damages exceeds the threshold, it will have the right to recover the full amounts due without regard to the threshold. The indemnification obligations of the Kasamba stockholders will be secured by a cash escrow fund consisting of \$7,000,000 in cash and a stock escrow fund consisting of 766,871 of the shares of LivePerson common stock to be issued at closing. The representations and warranties of Kasamba will survive for 18 months after the closing of the Merger. The Merger Agreement contains customary termination rights in favor of each of LivePerson and Kasamba.

The merger has been approved by the boards of directors of LivePerson and Kasamba. The consummation of the Merger is subject to certain closing conditions, including certain Israeli tax rulings, and other customary closing conditions, including Kasamba stockholder approval.

Upon the closing of the transaction, LivePerson will issue shares of its common stock to Kasamba’s stockholders in a private placement, in reliance on the exemption from the registration requirements of the Securities Act of 1933, as amended, provided by Section 4(2) and Regulation D thereunder. Such shares will be registered for resale on a Registration Statement on Form S-3 shortly after the transaction closes. The shares of LivePerson common stock issued in the Merger to Kasamba’s significant stockholders will be subject to resale limitations contemplated by the Merger Agreement.

The foregoing description of the Merger Agreement is qualified in its entirety by reference to the full text of the Merger Agreement, a copy of which is expected to be filed as an exhibit to LivePerson’s Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2007.

On June 25, 2007, LivePerson issued a press release announcing the merger, a copy of which is filed with this report as Exhibit 99.1 and is incorporated by reference into this report.

No representation, warranty, covenant or agreement described above or contained in the Merger Agreement is, or should be construed as, a representation or warranty by LivePerson to any investor or a covenant or agreement of LivePerson with any investor. The representations, warranties, covenants and agreements contained in the Merger Agreement are solely for the benefit of LivePerson and Kasamba and are qualified by disclosures between the parties.

This report is neither an offer to sell nor a solicitation of offers to purchase common stock of LivePerson. The issuance of shares of common stock by LivePerson in connection with this transaction will not be registered under the Securities Act of 1933, as amended, and the shares may not be offered or sold in the United States absent registration or an applicable exemption from the registration requirements.

Item 3.02. Unregistered Sales of Equity Securities.

The information contained in Item 1.01 of this report is incorporated by reference herein.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits. The following documents are included as exhibits to this report:

99.1 Press release issued June 25, 2007.

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.

LIVEPERSON, INC.
(Registrant)

Date: June 25, 2007

By:

/s/ TIMOTHY E. BIXBY

Timothy E. Bixby
*President, Chief Financial Officer and
Secretary*
