FAB INDUSTRIES INC
Form NT 10-K
February 28, 2005

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

FORM 12B-25

NOTIFICATION OF LATE FILING

SEC FILE NUMBER
1-5901

CUSIP NUMBER
302747100

(Check One): [X] Form 10-K [_] Form 20-F [_] Form 11-K
[_] Form 10-Q [_] Form N-SAR [_] Form N-CSR

For Period Ended: November 30, 2004

[_] Transition Report on Form 10-K
[_] Transition Report on Form 20-F
[_] Transition Report on Form 11-K
[_] Transition Report on Form 10-Q
[_] Transition Report on Form N-SAR

For the Transition Period Ended:

NOTHING IN THIS FORM SHALL BE CONSTRUED TO IMPLY THAT THE COMMISSION HAS VERIFIED ANY INFORMATION CONTAINED HEREIN.

If the notification relates to a portion of the filing checked above, identify the item(s) to which the notification relates:

PART I - REGISTRANT INFORMATION

FAB INDUSTRIES, INC.

Full Name of Registrant

Former Name if Applicable

200 MADISON AVENUE

Address of Principal Executive Office (Street and Number)

NEW YORK, NY 10016

City, State and Zip Code

PART II - RULES 12B-25(B) AND (C)

If the subject report could not be filed without unreasonable effort or expense and the registrant seeks relief pursuant to Rule 12b-25(b), the following should be completed. (Check box if appropriate)

[X] (a) The reasons described in reasonable detail in Part III of this form could not be eliminated without unreasonable effort or expense;

[_] (b) The subject annual report, semi-annual report, transition report on Form 10-K, Form 20-F, Form 11-K, Form N-SAR or Form N-CSR, or portion thereof, will be filed on or before the 15th calendar day following the prescribed due date; or the subject quarterly report or transition report on Form 10-Q, or portion thereof, will be filed on or before the fifth calendar day following the prescribed due date; and

[_] (c) The accountant's statement or other exhibit required by Rule 12b-25(c) has been attached if applicable (attached as EXHIBIT 1 hereto).

PART III - NARRATIVE

State below in reasonable detail why Forms 10-K, 20-F, 11-K, 10-Q, N-SAR, N-CSR or the transition report or portion thereof, could not be filed within the prescribed time period. (Attach Extra Sheets if Needed)

Under the Company's plan of liquidation, the Company will be required to transfer its assets and liabilities to a liquidating trust on May 30, 2005 if the Company's business is not sold by such date. The liquidating trust would then succeed to all of the Company's remaining assets and liabilities.

Currently, due to the uncertainty as to whether the Company will be sold prior to May 30, 2005, the Company and its accountants, BDO Siedman, LLP, have determined that it is more appropriate to present the Company's financial statements on a liquidation basis. As a result, the Company will be required to determine the value of its assets on a liquidation basis. The Company is currently in the process of conducting the required appraisals and will not be able to timely file its annual report on Form 10-K for the fiscal year ended November 27, 2004.

PART IV - OTHER INFORMATION

(1) Name and telephone number of person to contact in regard to this notification.

| SAMSON BITENSKY | 212 | 592-2700 |
|---|---|---|
| (Name) | (Area Code) | (Telephone Number) |

(2) Have all other periodic reports required under Section 13 or 15(d) of the Securities Exchange Act of 1934 or Section 30 of the Investment Company Act of 1940 during the preceding 12 months or for such shorter period that the registrant was required to file such report(s) been filed? If answer is no, identify report(s).

[X] Yes [_] No

(3) Is it anticipated that any significant change in results of operations from the corresponding period for the last fiscal year will be reflected by the earnings statements to be included in the subject report or portion thereof?

[X] Yes [_] No

If so, attach an explanation of the anticipated change, both narratively and quantitatively, and, if appropriate, state the reasons why a reasonable estimate of the results cannot be made.

As described in Part III hereof, the Company is currently in the process of conducting appraisals to present its financial statements on a liquidation basis. It is likely that following the completion of these appraisals, the carrying value of certain of the Company's assets will need to be reduced. Any impairment in the carrying value of the Company's assets will negatively affect the Company's operating results recorded for the fiscal year ended November 27, 2004. As the Company's appraisals have not yet been completed, the Company cannot reasonably quantify the extent to which the Company's results of operations for its fiscal year ended November 27, 2004 will differ from those for its fiscal year ended November 30, 2003.



FAB INDUSTRIES INC.

(Name of Registrant as Specified in Charter)

has caused this notification to be signed on its behalf by the undersigned hereunto duly authorized.

Date February 28, 2005

By /s/ Samson Bitensky

Name: Samson Bitensky
Title: Chairman and Chief Executive Officer

INSTRUCTION: The form may be signed by an executive officer of the registrant or by any other duly authorized representative. The name and title of the person signing the form shall be typed or printed beneath the signature. If the statement is signed on behalf of the registrant by an authorized representative (other than an executive officer), evidence of the representative's authority to sign on behalf of the registrant shall be filed with the form.

ATTENTION

INTENTIONAL MISSTATEMENTS OR OMISSIONS OF FACT CONSTITUTE FEDERAL CRIMINAL VIOLATIONS (SEE 18 U.S.C. 1001).

d to Cardiac safety reporting and ePRO subscriptions, were reclassified to the services category on the consolidated statements of operations for all periods presented as these items are relatively insignificant.

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**Results of Operations**

**Executive Overview**

Net revenues were $24.2 million for the second quarter of 2009, a decrease of $11.3 million or 31.8% from $35.5 million in the second quarter of 2008. The year over year revenue decline is due to a decline in transaction volumes primarily in Thorough QTc and to a lesser extent routine studies, lower revenue from acquired backlog of Covance Cardiac Safety Services, Inc. (CCSS) as this backlog nears completion and lower equipment sales in the second quarter of 2009 than in the second quarter of 2008 as more customers chose to rent cardiac safety equipment.

Gross margin percentage in the second quarter of 2009 was 52.3% compared to 57.0% in the second quarter of 2008. Gross margin percentage is significantly impacted by volume. The negative impacts of volume on the gross margin percentage compared to the prior year s quarter was partially offset by the elimination of legacy costs associated with processing the CCSS backlog during the period we integrated the CCSS operations and lower depreciation and amortization.

Operating income for the second quarter of 2009 was $4.8 million or 20.0% of total net revenues compared to $10.8 million or 30.3% of total net revenues in the second quarter of 2008. Total expenses were $19.3 million in the second quarter of 2009, a decrease of $5.4 million from $24.7 million in the second quarter of 2008. Our effective income tax rate for the second quarter of 2009 was 42.5% compared to 39.5% in the second quarter of 2008.

Net income for the second quarter of 2009 was $2.5 million, or $0.05 per share, compared to $6.7 million, or $0.13 per share in the second quarter of 2008.

Commencing in the fourth quarter of 2008, general business and economic conditions have deteriorated globally. Starting in the fourth quarter of 2008, we experienced an increased focus in Phase III opportunities, a decline in the number of Thorough QTc bookings, and a delay in starts for certain Thorough QTc trials, and we believe these trends will continue through fiscal 2009. We believe the increase in Phase III opportunities will provide us with a base of business into the future; however, this business will take longer to turn into revenue. We believe that the delays in Thorough QTc trials are related to timing as the result of the uncertain economic environment, especially in small to midsize customers. Thorough QTc trials are generally required to be performed due to regulatory guidance; however, the timing of when these trials are done is discretionary.

We also experienced an increase in awards of new and expanded exclusive or near-exclusive long-term enterprise relationships with large pharmaceutical companies during the latter portion of fiscal 2008 and also continuing into 2009, including several with whom we had very little business in the past. In exchange for these long-term enterprise relationships with large pharmaceutical companies, which are targeted to generate larger volumes of business, we have made selective pricing concessions which we believe will have the effect of lowering overall average transaction pricing in the future as studies performed under these agreements become active and generate revenue. However, we have also recently implemented certain cost reductions to realign our cost structure, which may offset the impact on our gross margin percentage of any pricing reduction. Overall, we believe the fundamental drivers of our core business remain positive. However, a continued weakened global economy could have a negative impact on future results of operations.

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The following table presents certain financial data as a percentage of total net revenues:

| | Three Months Ended June 30, | | Six Months Ended June 30, | |
|---|---|---|---|---|
| | 2008 | 2009 | 2008 | 2009 |
| Net revenues: | | | | |
| EDC licenses and services | 4.2% | 4.5% | 4.0% | 5.2% |
| Services | 75.4% | 67.1% | 74.3% | 67.4% |
| Site support | 20.4% | 28.4% | 21.7% | 27.4% |
| Total net revenues | 100.0% | 100.0% | 100.0% | 100.0% |
| Costs of revenues: | | | | |
| Cost of EDC licenses and services | 1.3% | 1.6% | 1.3% | 1.8% |
| Cost of services | 28.7% | 31.7% | 29.6% | 32.0% |
| Cost of site support | 13.0% | 14.4% | 14.3% | 14.8% |
| Total costs of revenues | 43.0% | 47.7% | 45.2% | 48.6% |
| Gross margin | 57.0% | 52.3% | 54.8% | 51.4% |
| Operating expenses: | | | | |
| Selling and marketing | 10.7% | 13.6% | 10.3% | 14.0% |
| General and administrative | 13.0% | 14.6% | 13.7% | 15.8% |
| Research and development | 3.0% | 4.1% | 3.0% | 4.5% |
| Total operating expenses | 26.7% | 32.3% | 27.0% | 34.3% |
| Operating income | 30.3% | 20.0% | 27.8% | 17.1% |
| Other income (expense), net | 0.7% | -1.7% | 1.0% | -0.7% |
| Income before income taxes | 31.0% | 18.3% | 28.8% | 16.4% |
| Income tax provision | 12.2% | 7.8% | 10.9% | 6.8% |
| Net income | 18.8% | 10.5% | 17.9% | 9.6% |

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**Three Months Ended June 30, 2008 Compared to Three Months Ended June 30, 2009.**
The following table presents our consolidated statements of operations with product line detail (dollars in thousands):

| | Three Months Ended June 30, | | Increase (Decrease) | |
|---|---|---|---|---|
| | 2008 | 2009 | | |
| EDC licenses and services: | | | | |
| Net revenues | $ 1,487 | $ 1,083 | $ (404) | (27.2%) |
| Costs of revenues | 468 | 397 | (71) | (15.2%) |
| Gross margin | $ 1,019 | $ 686 | $ (333) | (32.7%) |
| Services: | | | | |
| Net revenues | $ 26,763 | $ 16,215 | $ (10,548) | (39.4%) |
| Costs of revenues | 10,185 | 7,671 | (2,514) | (24.7%) |
| Gross margin | $ 16,578 | $ 8,544 | $ (8,034) | (48.5%) |
| Site support: | | | | |
| Net revenues | $ 7,222 | $ 6,878 | $ (344) | (4.8%) |
| Costs of revenues | 4,599 | 3,470 | (1,129) | (24.5%) |
| Gross margin | $ 2,623 | $ 3,408 | $ 785 | 29.9% |
| Total | | | | |
| Net revenues | $ 35,472 | $ 24,176 | $ (11,296) | (31.8%) |
| Costs of revenues | 15,252 | 11,538 | (3,714) | (24.4%) |
| Gross margin | 20,220 | 12,638 | (7,582) | (37.5%) |
| Operating expenses: | | | | |
| Selling and marketing | 3,810 | 3,274 | (536) | (14.1%) |
| General and administrative | 4,601 | 3,527 | (1,074) | (23.3%) |
| Research and development | 1,051 | 993 | (58) | (5.5%) |
| Total operating expenses | 9,462 | 7,794 | (1,668) | (17.6%) |
| Operating income | 10,758 | 4,844 | (5,914) | (55.0%) |
| Other income (expense), net | 244 | (409) | (653) | (267.6%) |
| Income before income taxes | 11,002 | 4,435 | (6,567) | (59.7%) |
| Income tax provision | 4,342 | 1,887 | (2,455) | (56.5%) |
| Net income | $ 6,660 | $ 2,548 | $ (4,112) | (61.7%) |

The following table presents costs of revenues as a percentage of related net revenues and operating expenses as a percentage of total net revenues:

| | Three Months Ended June 30, | | Increase |
|---|---|---|---|
| | 2008 | 2009 | (Decrease) |
| Cost of EDC licenses and services | 31.5% | 36.7% | 5.2% |
| Cost of services | 38.1% | 47.3% | 9.2% |
| Cost of site support | 63.7% | 50.5% | (13.2%) |
| Total costs of revenues | 43.0% | 47.7% | 4.7% |
| | | | |
| Operating expenses: | | | |
| Selling and marketing | 10.7% | 13.6% | 2.9% |
| General and administrative | 13.0% | 14.6% | 1.6% |
| Research and development | 3.0% | 4.1% | 1.1% |

*EDC*

On June 23, 2009, we completed the sale of certain assets relating to our EDC operations. Under the terms of the transaction, OmniComm Systems, Inc. issued 8.1 million shares of common stock and assumed certain liabilities including deferred revenue relating to our EDC operations in exchange for our EDC assets which primarily included our EDC software, applications and fixed assets and $1.15 million in cash we paid. During the three months ended June 30, 2009, we recorded a gain on the sale of these assets of $0.5 million within general and administrative expenses in the consolidated statement of operations. The decrease in revenues and corresponding expenses for the three and six months ended June 30, 2009 as compared to the same periods ended June 30, 2008 were due to fewer one-time license sales in 2009 and termination of maintenance agreements.

*Revenues*

The decrease in services revenues was primarily due to an $8.4 million reduction in transactions performed in the three months ended June 30, 2009 as compared to the three months ended June 30, 2008. There was also a decrease in average revenue per transaction that was largely due to a heavier weighting of semi-automatic studies which carry lower transaction prices which resulted in a decrease in revenue of approximately $0.8 million. Project management fees, excluding reporting configuration revenue, decreased $0.8 million, consistent with the decreased Cardiac Safety activity.

Site support revenues decreased primarily due to a reduction in freight revenue due to decreased shipping activity consistent with the decreased Cardiac Safety activity.

*Costs of Revenues*

The decrease in the cost of services was primarily due to $2.1 million of costs recognized in the second quarter of 2008 associated with the CCSS operations. We completed the integration of the CCSS acquisition in the third quarter of 2008 with the complete transfer of all operating activities from the CCSS Reno facility into our operations in Philadelphia and Peterborough. Additionally, amortization of intangible assets decreased $0.3 million as result of certain assets becoming fully amortized and variable incentive compensation expense decreased $0.4 million due to reduced accruals based on operating results. Partially offsetting the decrease were increases in several areas including labor costs related to additional staff added in the second half of 2008 and market adjustments to salaries made in 2009, increased depreciation due to systems placed in service in 2009 and other expense increases. The increase in the cost of services as a percentage of service revenues reflects the fact that some of the costs do not necessarily change in direct relation with changes in revenue.

The decrease in the cost of site support, both in absolute terms and as a percentage of site support revenues, was primarily due to a $0.8 million decrease in depreciation expense as older, more expensive ECG equipment has become fully depreciated and a $0.2 million decrease in freight. Additional small decreases occurred in costs associated with the CCSS operations in 2008, labor and other expenses.

*Operating Expenses*

The decrease in selling and marketing expenses was due primarily to a $0.5 million decrease in incentive compensation consistent with lower levels of revenue. The increase in selling and marketing expenses as a percentage of total net revenues reflects the fact that the costs do not necessarily change in direct relation with changes in revenue.

The decrease in general and administrative expenses was due primarily to $0.9 million of costs recognized in the second quarter of 2008 resulting from including the administrative costs of CCSS in 2008 for which there were no corresponding costs in the second quarter of 2009. Additionally, variable incentive compensation expense decreased $0.4 million due to reduced accruals based on operating results and stock option compensation expense decreased $0.2 million. Partially offsetting these decreases were severance of $0.3 million in the second quarter of 2009 related to the relocation of our customer care team, $0.3 million increase in consulting, and smaller increases in professional fees, bad debt expense and other expenses. The gain on sale of certain assets of our EDC operations of $0.5 million was recorded in the second quarter of 2009. The increase in general and administrative expenses as a percentage of total net revenues reflects the fact that the costs do not necessarily change in direct relation with changes in revenue.

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The decrease in research and development expenses was primarily due to a reduction in variable incentive compensation expense due to reduced accruals based on operating results and an increase in the capitalization of salaries for internal-use software projects partially offset by a $0.2 million increase in expense for third-party consultants. The increase in research and development expenses as a percentage of total net revenues reflects the fact that the costs do not necessarily change in direct relation with changes in revenue.

In the three months ended June 30, 2009, other income (expense), net, consisted primarily of foreign exchanges losses of $0.5 million partially offset by interest income of $0.2 million. In the three months ended June 30, 2008, other income, net, consisted primarily of interest income of $0.2 million. Foreign exchange losses were caused by dollar-denominated receivables and deferred revenue in our UK entity that were settled at less favorable exchange rates with the British pound sterling.

Our effective tax rate for the three months ended June 30, 2009 was 42.5% compared to 39.5% for the three months ended June 30, 2008. The increase in the effective tax rate is primarily due to greater income apportionment in higher tax jurisdictions and a reduction in certain tax credits.



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**Six Months Ended June 30, 2008 Compared to Six Months Ended June 30, 2009.**
The following table presents our consolidated statements of operations with product line detail (dollars in thousands):

| | Six Months Ended June 30, 2008 | Six Months Ended June 30, 2009 | Increase (Decrease) | |
|---|---|---|---|---|
| EDC licenses and services: | | | | |
| Net revenues | $ 2,790 | $ 2,501 | $ (289) | (10.4%) |
| Costs of revenues | 919 | 863 | (56) | (6.1%) |
| Gross margin | $ 1,871 | $ 1,638 | $ (233) | (12.5%) |
| Services: | | | | |
| Net revenues | $ 51,358 | $ 32,323 | $ (19,035) | (37.1%) |
| Costs of revenues | 20,448 | 15,364 | (5,084) | (24.9%) |
| Gross margin | $ 30,910 | $ 16,959 | $ (13,951) | (45.1%) |
| Site support: | | | | |
| Net revenues | $ 14,997 | $ 13,138 | $ (1,859) | (12.4%) |
| Costs of revenues | 9,867 | 7,105 | (2,762) | (28.0%) |
| Gross margin | $ 5,130 | $ 6,033 | $ 903 | 17.6% |
| Total | | | | |
| Net revenues | $ 69,145 | $ 47,962 | $ (21,183) | (30.6%) |
| Costs of revenues | 31,234 | 23,332 | (7,902) | (25.3%) |
| Gross margin | 37,911 | 24,630 | (13,281) | (35.0%) |
| Operating expenses: | | | | |
| Selling and marketing | 7,133 | 6,700 | (433) | (6.1%) |
| General and administrative | 9,474 | 7,604 | (1,870) | (19.7%) |
| Research and development | 2,050 | 2,142 | 92 | 4.5% |
| Total operating expenses | 18,657 | 16,446 | (2,211) | (11.9%) |
| Operating income | 19,254 | 8,184 | (11,070) | (57.5%) |
| Other income (expense), net | 671 | (293) | (964) | (143.7%) |
| Income before income taxes | 19,925 | 7,891 | (12,034) | (60.4%) |
| Income tax provision | 7,519 | 3,273 | (4,246) | (56.5%) |
| Net income | $ 12,406 | $ 4,618 | $ (7,788) | (62.8%) |

The following table presents costs of revenues as a percentage of related net revenues and operating expenses as a percentage of total net revenues:

| | Six Months Ended June 30, | Increase |
|---|---|---|

| | 2008 | 2009 | (Decrease) |
|---|---|---|---|
| Cost of EDC licenses and services | 32.9% | 34.5% | 1.6% |
| Cost of services | 39.8% | 47.5% | 7.7% |
| Cost of site support | 65.8% | 54.1% | (11.7%) |
| Total costs of revenues | 45.2% | 48.6% | 3.4% |
| | | | |
| Operating expenses: | | | |
| Selling and marketing | 10.3% | 14.0% | 3.7% |
| General and administrative | 13.7% | 15.8% | 2.1% |
| Research and development | 3.0% | 4.5% | 1.5% |

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*EDC*

On June 23, 2009, we completed the sale of certain assets relating to our EDC operations. The decrease in revenues and corresponding expenses for the three and six months ended June 30, 2009 as compared to the same periods ended June 30, 2008 were due to fewer one-time license sales in 2009 and termination of maintenance agreements.

*Revenues*

The decrease in services revenues was primarily due to a $15.6 million reduction in transactions performed in the six months ended June 30, 2009 as compared to the six months ended June 30, 2008. There was also a decrease in average revenue per transaction that was largely due to a heavier weighting of semi-automatic studies which carry lower transaction prices, resulting in a decrease in revenue of approximately $1.3 million. Project management fees decreased $1.2 million, consistent with the decreased Cardiac Safety activity. The balance of the decrease is due to a $0.2 million decrease in Cardiac Safety consulting revenue and a number of miscellaneous other decreases.

Site support revenues decreased primarily due to a $0.9 million decrease in equipment sales as more customers choose to rent cardiac safety equipment and a $0.8 million decrease in rental revenue from cardiac safety equipment due to a lower average price per unit. The lower average price per unit is a result of planned actions that we have recently taken to improve our competitiveness with regard to this component of our revenue. Additionally, there was a $0.4 million reduction in freight revenue due to decreased shipping activity consistent with the decreased Cardiac Safety activity. A small increase in supplies and other revenue partially offset these decreases.

*Costs of Revenues*

The decrease in the cost of services was primarily due to $4.8 million of costs recognized in the six months ended June 30, 2008 associated with the CCSS operations. We completed the integration of the CCSS acquisition in the third quarter of 2008 with the complete transfer of all operating activities from the CCSS Reno facility into our operations in Philadelphia and Peterborough. Additionally, amortization of intangible assets decreased $0.6 million as result of certain assets becoming fully amortized and variable incentive compensation expense decreased $0.6 million due to reduced accruals based on operating results. Partially offsetting the decrease were increases in several areas including labor costs related to additional staff added in the second half of 2008 and market adjustments to salaries made in 2009, increased depreciation due to systems placed in service in 2009 and other expense increases. The increase in the cost of services as a percentage of service revenues reflects the fact that some of the costs do not necessarily change in direct relation with changes in revenue.

The decrease in the cost of site support, both in absolute terms and as a percentage of site support revenues, was primarily due to a $1.6 million decrease in depreciation expense as older, more expensive ECG equipment has become fully depreciated, $0.8 million of costs recognized in the six months ended June 30, 2008 associated with the CCSS operations, and a $0.5 million decrease in freight.

*Operating Expenses*

The decrease in selling and marketing expenses was due primarily to a $0.5 million decrease in incentive compensation consistent with lower levels of revenue. Partially offsetting this decrease was an increase in consulting and marketing costs due to corporate rebranding and other planned initiatives. The increase in selling and marketing expenses as a percentage of total net revenues reflects the fact that the costs do not necessarily change in direct relation with changes in revenue.

The decrease in general and administrative expenses was due primarily to $2.2 million of costs recognized in the first six months of 2008 resulting from including the administrative costs of CCSS in 2008 for which there were no corresponding costs in the first six months of 2009. Additionally, variable incentive compensation expense decreased $0.4 million due to reduced accruals based on operating results. Partially offsetting these decreases were severance of $0.3 million in the second quarter of 2009 related to the relocation of our customer care team from our New Jersey location to our Philadelphia location, $0.2 million increase in each of consulting, bad debt expense and professional fees and smaller increases in stock option compensation expense and other expenses. The gain on sale of certain assets of the EDC operations of $0.5 million was recorded in the second quarter of 2009. The increase in general and administrative expenses as a percentage of total net revenues reflects the fact that the costs do not necessarily change in direct relation with changes in revenue.

In the six months ended June 30, 2009, other income (expense), net, consisted primarily of foreign exchanges losses of $0.4 million partially offset by interest income of $0.1 million. In the six months ended June 30, 2008, other income, net, consisted primarily of interest income of $0.5 million and foreign exchange gains of $0.1 million. Foreign exchange losses in 2009 were caused by dollar-denominated receivables in our UK entity that were settled at less favorable exchange rates with the British pound sterling.

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Our effective tax rate for the six months ended June 30, 2009 was 41.5% compared to 37.7% for the six months ended June 30, 2008. The increase in the effective tax rate is primarily due to greater income apportionment in higher tax jurisdictions and a reduction in certain tax credits. Additionally, the effective tax rate for the six months ended June 30, 2008 included a benefit of $0.3 million related to our determination that a portion of our UK subsidiary s current undistributed net earnings, as well as the future net earnings, will be permanently reinvested. The effective tax rate for the six months ended June 30, 2008 also included a benefit from tax-free interest income which declined significantly in the six months ended June 30, 2009.

**Liquidity and Capital Resources**

At June 30, 2009, we had $68.8 million of cash, cash equivalents and short-term investments. We had historically placed our investments in municipal securities, bonds of government sponsored agencies, certificates of deposit with fixed rates and maturities of less than one year, and A1P1 rated commercial bonds and paper. Due to the current financial market conditions, we have invested primarily in liquid money market funds.

For the six months ended June 30, 2009, our operations provided cash of $19.1 million compared to $18.0 million during the six months ended June 30, 2008. The increase was primarily the result of a decrease in accounts receivable in the six months ended June 30, 2009 of $12.0 million as compared to an increase of $2.6 million in the six months ended June 30, 2008 related to focused collection efforts and a decrease in revenue. Partially offsetting this positive impact on cash flow was $7.8 million of lower net income in the six months ended June 30, 2009 as compared to the six months ended June 30, 2008, a $2.6 million larger decrease in accrued expenses in the six months ended June 30, 2009 as compared to the six months ended June 30, 2008 which was largely the result of the payment of a greater amount in 2009 for variable incentive compensation related to the prior year s results, and a $3.4 million decrease in net income tax liabilities in the six months ended June 30, 2009 as compared to an immaterial decrease in the six months ended June 30, 2008. Changes in income taxes, including deferred income taxes, are due to the timing and size of income tax payments and provision. The tax provision decreased in 2009 due to lower taxable income, but at a higher effective tax rate.

For the six months ended June 30, 2009, our investing activities used cash of $4.3 million as compared to $7.6 million during the six months ended June 30, 2008. $0.7 million and $4.8 million were incurred in the first six months of 2009 and 2008, respectively, for contingent payments and transaction costs related to the CCSS acquisition.

During the six months ended June 30, 2009 and 2008, we purchased $2.5 million and $5.2 million, respectively, of property and equipment. Included in property and equipment is $1.2 million for each of the six months ended June 30, 2009 and 2008 of internal use software including software associated with the development of a data and communications management services software product (EXPERT®) used in connection with our centralized core cardiac safety ECG services. We capitalize certain internal use software costs in accordance with Statement of Position (SOP) 98-1, Accounting for Costs of Computer Software for Internal Use. The amortization is charged to the cost of Cardiac Safety services beginning at the time the software is ready for its intended use. The balance of the change was due to a decrease in purchases of ECG equipment commensurate with the decrease in revenue in the six months ended June 30, 2009 as compared to the six months ended June 30, 2008.

For the six months ended June 30, 2009, our financing activities used cash of $13.9 million compared to providing $1.0 million for the six months ended June 30, 2008. In the six months ended June 30, 2009, we repurchased $14.0 million of our common stock under our stock buy-back program. We did not purchase any of our common stock during the six months ended June 30, 2008.

We have a line of credit arrangement with Wachovia Bank, National Association totaling $3.0 million which expires on June 1, 2010. To date, we have not borrowed any amounts under our line of credit. As of June 30, 2009, we had outstanding letters of credit of $0.5 million, which reduced our available borrowings under the line of credit to $2.5 million.

We have commitments to purchase approximately $2.8 million of private label cardiac safety equipment from a manufacturer over a twelve-month period beginning upon completion of our user acceptance testing, which is currently anticipated to be completed in the first quarter of 2010. We expect to purchase this cardiac safety equipment in the normal course of business and thus this commitment does not represent a significant commitment above our expected purchases of ECG equipment during this period.

We expect that existing cash and cash equivalents and cash flows from operations will be sufficient to meet our foreseeable cash needs for at least the next year. However, there may be acquisition and other growth opportunities that require additional external financing and we may from time to time seek to obtain additional funds from the public or private issuances of equity or debt securities. There can be no assurance that any such acquisitions will occur or that such financing will be available or available on terms acceptable to us, particularly in view of current capital market uncertainty.

Our board of directors has authorized the repurchase of up to an aggregate of 12.5 million shares, of which 5.2 million shares remain to be purchased as of June 30, 2009. The stock buy-back authorization allows us, but does not require us, to purchase the authorized shares. The purchase of the remaining shares authorized could require us to use a significant portion of our cash, cash equivalents and investments and could also require us to seek additional external financing. During the six months ended June 30, 2009, we purchased 2,706,719 shares of our common stock at a cost of $14.0 million. Subsequent to June 30, 2009, an additional 112,000 shares were purchased for $0.6 million. No shares were purchased during the six months ended June 30, 2008.

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On November 28, 2007, we completed the acquisition of CCSS from Covance Inc. Under the terms of our agreement to purchase CCSS, the total initial purchase consideration was $35.2 million. We have additionally incurred approximately $1.1 million in transaction costs. We may also pay contingent consideration of up to approximately $14.0 million based upon our potential realization of revenue from the backlog transferred and from new contracts secured through Covance s marketing activities. The period for contingent payments runs through December 31, 2010. Through June 30, 2009, Covance earned $5.1 million of this contingent amount, of which $3.0 million was recognized in 2007, $2.0 million in the year ended December 31, 2008 and $0.1 million in the six months ended June 30, 2009. At June 30, 2009, approximately $0.1 million of the contingent amount earned remained to be paid to Covance, which we recorded in accounts payable. These contingent payments increased goodwill by $5.1 million. Under the terms of the marketing agreement, Covance agreed to exclusively use us as its provider of centralized cardiac safety solutions for a ten-year period, subject to certain exceptions, and we agreed to pay referral fees on certain revenues.

**Inflation**

We believe the effects of inflation and changing prices generally do not have a material effect on our consolidated results of operations or financial condition.

**Item 3. Quantitative and Qualitative Disclosures About Market Risk**

Our primary financial market risks include fluctuations in interest rates and currency exchange rates.

**Interest Rate Risk**

We generally place our investments in money market funds, municipal securities, bonds of government sponsored agencies, certificates of deposit with fixed rates with maturities of less than one year and A1P1 rated commercial bonds and paper. Due to the current financial market conditions, we have invested primarily in liquid money market funds. We will continue to monitor conditions and look for prudent investment opportunities. We actively manage our portfolio of cash equivalents and short-term investments, but in order to ensure liquidity, will only invest in instruments with high credit quality where a secondary market exists. We have not held and do not hold any derivatives related to our interest rate exposure. Due to the average maturity and conservative nature of our investment portfolio, a sudden change in interest rates would not have a material effect on the value of the portfolio. The impact on interest income of future changes in investment yields will depend largely on the gross amount of our cash, cash equivalents, short-term investments and log-term investments. See Liquidity and Capital Resources as part of Management s Discussion and Analysis of Financial Condition and Results of Operations.

**Foreign Currency Risk**

We operate on a global basis from locations in the United States (U.S.) and the United Kingdom (UK). All international net revenues and expenses are billed or incurred in either U.S. dollars or pounds sterling. As such, we face exposure to adverse movements in the exchange rate of the pound sterling. As the currency rate changes, translation of the statement of operations of our UK subsidiary from the local currency to U.S. dollars affects year-to-year comparability of operating results. We do not hedge translation risks because any cash flows from UK operations are reinvested in the UK.

Management estimates that a 10% change in the exchange rate of the pound sterling would have impacted the reported operating income for the six months ended June 30, 2009 by approximately $0.1 million.

**Item 4. Controls and Procedures**

We carried out an evaluation, under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of our disclosure controls and procedures pursuant to Rule 13a-15 under the Securities Exchange Act of 1934, as amended, as of the end of the period covered by this report. Based upon that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures as of the end of the period covered by this report were designed and functioning effectively to provide reasonable assurance that information required to be disclosed by the Company (including our consolidated subsidiaries) in the reports we file with or submit to the Securities and Exchange Commission is (i) recorded, processed, summarized and reported within the time periods specified in the Commission s rules and forms and (ii) accumulated and communicated to our management, including our Chief Executive Officer and our Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosure. There were no changes in our internal control over financial reporting during the quarter ended June 30, 2009 that have materially affected, or

are reasonably likely to materially affect, our internal control over financial reporting.



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**Part II. Other Information**

**Item 2. Unregistered Sales of Equity Securities and Use of Proceeds**

The following table provides information regarding the stock buy-back activity during the fiscal quarter ended June 30, 2009:

**ISSUER PURCHASES OF EQUITY SECURITIES**

| Period | (a) Total Number of Shares Purchased | (b) Average Price Paid per Share | (c) Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs (1) | (d) Maximum Number of Shares that May Yet Be Purchased Under the Plans or Programs |
|---|---|---|---|---|
| April 2009 | 168,000 | $ 5.24 | 168,000 | 5,742,199 |
| May 2009 | 479,700 | $ 5.48 | 479,700 | 5,262,499 |
| June 2009 | 93,567 | $ 5.50 | 93,567 | 5,168,932 |
| Total | 741,267 | | 741,267 | |

(1) We originally announced a program to repurchase up to 500,000 shares on April 21, 2004, and subsequently announced increases of $2.0 million and 10.0 million shares on October 20, 2004 and May 3, 2005, respectively. Through June 30, 2009, we have repurchased 7.3 million

shares of the 12.5 million shares approved for repurchase.

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

We held our Annual Meeting of Stockholders on April 29, 2009. The matters submitted to the stockholders for vote were the election of two directors to each serve a three-year term until 2012 and ratification of the appointment of KPMG LLP as our independent registered public accountants for the year ending December 31, 2009.

At the meeting, the stockholders elected Michael J. McKelvey, Ph.D and Stephen M. Scheppmann to the Board of Directors. Dr. McKelvey was elected with 32,566,680 shares voted for the election, or 64.7% of the 50,315,890 shares outstanding and eligible to vote, with 10,257,858 shares withholding the authority to vote for such election. Mr. Scheppmann was elected with 32,660,232 shares voted for the election, or 64.9% of the shares outstanding and eligible to vote, with 10,164,306 shares withholding the authority to vote for such election. With the election of the two directors, they joined Sheldon M. Bonovitz, Michael F. DeMane, Gerald A. Faich, MD, MPH, Elam M. Hitchner, Joel Morganroth MD, and Stephen S. Phillips as our directors.

The stockholders also ratified the appointment of KPMG LLP as our independent registered public accountants for 2009 with 42,293,344 shares voted for ratification, or 84.1% of the shares outstanding and eligible to vote, with 462,413 shares voted against ratification and 68,780 shares abstained.

**Item 6. Exhibits**

| | |
|---|---|
| 10.28 | Modification Number One to Promissory Note and Loan Agreement dated May 19, 2009. |
| 31.1 | Certification of Chief Executive Officer. |
| 31.2 | Certification of Chief Financial Officer. |
| 32.1 | Statement of Chief Executive Officer Pursuant to Section 1350 of Title 18 of the United States Code. |
| 32.2 | Statement of Chief Financial Officer Pursuant to Section 1350 of Title 18 of the United States Code. |

* Management contract or compensatory plan or arrangement.

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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.

| | |
|---|---|
| | eResearchTechnology, Inc.<br>(Registrant) |
| Date: August 7, 2009 | By: /s/ Michael J. McKelvey |
| | Michael J. McKelvey<br>President and Chief Executive Officer,<br>(Principal executive officer) |
| Date: August 7, 2009 | By: /s/ Keith D. Schneck |
| | Keith D. Schneck<br>Executive Vice President, Chief Financial Officer and Secretary<br>(Principal financial and accounting officer) |

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**EXHIBIT INDEX**

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