PHOENIX TECHNOLOGIES LTD
Form 10-K
December 27, 2004
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UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-K

(Mark One)

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

For the fiscal year ended September 30, 2004

OR

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

For the transition period _____ to _____.

Commission file number 0-17111

PHOENIX TECHNOLOGIES LTD.

(Exact name of registrant as specified in its charter)

Delaware	**04-2685985**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**

915 Murphy Ranch Road, Milpitas, CA 95035

(Address of principal executive offices, including zip code)

(408) 570-1000

(Registrant s telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

None

Securities registered pursuant to Section 12(g) of the Act:

Common Stock, par value $.001

Preferred Stock Purchase Rights

(Title of each Class)

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 (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. YES x 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 an accelerated filer (as defined in Rule 12b-2 of the Exchange Act). YES x No ¨

The aggregate market value of the registrant s Common Stock held by non-affiliates of the registrant as of March 31, 2004 was approximately $127,987,436 based upon the last reported sales price of the registrant s Common Stock on The Nasdaq National Market for such date.

The number of shares of the registrant s Common Stock outstanding as of November 30, 2004 was 24,656,388.

Documents Incorporated by Reference

Portions of the registrant s definitive proxy statement to be filed pursuant to Regulation 14A in connection with the 2005 annual meeting of its stockholders are incorporated by reference into Part III of this Form 10-K.

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FORM 10-K

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FORWARD-LOOKING STATEMENTS

This report on Form 10-K, including without limitation the Business section and Management s Discussion and Analysis of Financial Condition and Results of Operations, contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. These statements may include, but are not limited to, statements concerning future liquidity and financing requirements, potential price erosion, plans to make acquisitions, dispositions or strategic investments, expectations of sales volume to customers and future revenue growth, and plans to improve and enhance existing products and develop new products. Words such as could , expects , may , anticipates , believes , estimates , plans , and other similar expressions are intended to indic forward-looking statements. All forward looking statements included in this document are based upon information available to the Company as of the date hereof, and the Company assumes no obligation to update any such forward looking statement to reflect events or circumstances occurring after the date hereof. Actual results could differ materially from the Company s current expectations. Some of the factors that could cause future results to materially differ from the recent results or those projected in the forward-looking statements include, but are not limited to, significant increases or decreases in demand for our products, increased competition, lower prices and margins, changes in customer buying patterns, failure to successfully develop and market new products and technologies, competitor introductions of superior products, continued industry consolidation, instability and currency fluctuations in international markets, product defects, failure to secure intellectual property rights, results of litigation, failure to retain and recruit key employees, acts of war or global terrorism, power shortages and unexpected natural disasters. For a more detailed discussion of the risks associated with the Company s business, see the Management s Discussion and Analysis of Financial Condition and Results of Operations Risk Factors section of this Form 10-K.

PART I

ITEM 1. BUSINESS

Business Overview

We are a global leader in the development, deployment, and support of Core System Software (CSS). CSS, the evolution of BIOS (Basic Input Output System), is used to enable, activate, protect, connect, and recover personal computers (PCs), industrial computers (IPCs), point of sale computers (POS), printers, copiers, medical devices, automotive controls, gaming systems, and other X86 based digital consumer devices. We provide our products primarily to worldwide platform and peripheral manufacturers that range from large branded PC and information products original equipment manufacturers (OEMs) and original design manufacturers (ODMs), to system integrators and value-added resellers (collectively, Customers). We also develop and provide software applications that enable independent software vendors (ISVs), OEMs, system builders and integrators, and information technology departments to authenticate, asset-manage, enable, protect and recover their computer systems and data. In addition to key products, we also provide support services, such as training, maintenance and engineering services, to our customers as required.

We believe that our products and services enable our customers to bring secure, leading-edge products to market faster, while reducing their manufacturing and support costs and providing essential features and capabilities to enable product differentiation.

The growth of the Internet has spurred additional connectivity to a broad range of digital devices beyond the PC. Traditional PC platforms have evolved into endpoints of the Internet and have been joined by a wide array of new innovative devices. These emerging connected digital devices include Internet access terminals, personal digital assistants (PDAs), cell phones, set top boxes, interactive TVs and related set top box solutions, Internet-enabled DVD players and other traditional consumer electronics devices, wireless handheld appliances, interactive game

stations, Web tablets, rack-mounted single board server systems (known as server blades) and other internet appliances that broaden the range of real time, interactive experiences available to the end user.

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Together, today s PC and non-PC digital devices play an integral and growing role within almost everybody s life. The diversity of hardware architectures, operating systems, and microprocessors and peripherals used by these devices has created a demand for new network assurance and device management capabilities that are built into the device and enabled by Phoenix core system software.

Sustaining and protecting business continuity from malicious attacks, viruses, and worms has also created a critical need for new device authentication that delivers increased network security.

To meet the demand of this changing market, the Company has, through a combination of internal development and acquisitions, launched a series of product families to offer a range of complete solutions to its customers. In each case, Phoenix products at the core offer an intelligent, secure, and reliable platform for delivering high value-added features and functions to a wide range of PC and connected digital device customers, increasing their competitiveness in the marketplace. Our security features and software applications capabilities are built into the device to enable trust, to protect the network, and to recover critical data in the event of a successful attack. We believe this approach leveraging our expertise to expand beyond CSS and PCs will help us enhance and strengthen our market presence as the X86-based PC and non-PC or embedded industry evolves.

The Company was incorporated in the Commonwealth of Massachusetts in September 1979, and was reincorporated in the State of Delaware in December 1986. The Company s headquarters is in Milpitas, California. The mailing address of our headquarters is 915 Murphy Ranch Road, Milpitas, CA 95035, and the telephone number at that location is (408) 570-1000.

Available Information

Our Website is www.phoenix.com. Through a link on the Investor Relations section of our Website, the Company makes available the following filings as soon as reasonably practicable after they are electronically filed with or furnished to the SEC: the Annual Report on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K, and any amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934. All such filings are available free of charge. Information contained on the Company s Website is not part of this report.

DESCRIPTION OF BUSINESS

The Company currently has one reportable segment, Phoenix, which includes the cME TrustedCore, FirstBIOS, FirstWare, cME Console and cME TrustConnector product families as well as related platform development tools and engineering services. inSilicon Corporation (inSilicon), a formerly majority-owned subsidiary reported as a separate segment prior to fiscal 2001, was sold to Synopsys, Inc. (Synopsys) in fiscal 2002. See Note 10 of the Company s Consolidated Financial Statements for further information regarding segment reporting and for customer revenues by geographic region.

Products

PC systems, as well as many information appliances and other electronic devices that connect to the Internet, consist of both hardware and system firmware, or CSS/BIOS, at the core platform level. These systems and devices may also use operating system (OS) software and applications software. The firmware or CSS/BIOS is typically stored in flash memory and/or a Read Only Memory (ROM) chip that resides on the device s motherboard, built into the device, and is executed during power up in order to test, initialize, and manage the functionality of the hardware.

Phoenix core system software products provide a critical link between hardware platforms and operating systems, while offering improved instant-on and pre-OS reliability through Phoenix FirstWare and cME products and increased security through Phoenix TrustedCore and TrustConnector solutions. In each case, these product

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suites provide complete, inter-operable solutions for customers in the traditional PC marketplace, as well as those delivering a new class of non-PC connected digital devices to provide both enhanced traditional experiences and robust new ones in places where PCs do not reach.

The Company has also developed and marketed an expanded pre-OS offering that includes additional platform tools and core-resident recovery and instant-on applications. These applications are marketed and sold as Phoenix cME, an open software platform centered on CSS/BIOS that enables the management and integration of functionality into the heart of digital devices.

Phoenix also licenses software developer kits (SDKs) to qualified partners for the development of core-resident, integrated, value-add solutions built on the Phoenix cME platform. These partners, including ISVs, OEMs, ODMs, system integrators, and system builders, can build and deploy applications in categories such as utilities, productivity, security, and content delivery.

The Phoenix product families include:

Phoenix cME TrustedCore Product Family

In fiscal year 2004, the Company introduced the cME TrustedCore family including, cME TrustedCore Notebook, cME TrustedCore Desktop, cME TrustedCore Server, cME TrustedCore Embedded and cME CoreArchitect. Phoenix cME TrustedCore is breakthrough Core System Software (CSS) that improves security and manageability of network-connected server, desktop and notebook PCs and embedded systems. The TrustedCore enhancements are targeted at the higher-value OEM notebook, server desktop, and embedded markets to create customer value-add opportunities and preserve or increase average selling price (ASP).

The Phoenix cME TrustedCore product family includes firmware, development tools and management applications that can be easily customized to meet the configuration requirements of various target markets. The Phoenix TrustedCore products enable built-in device authentication that creates a chain of trust architecture

The Phoenix cME TrustedCore products provide built-in device security, digitally signed Core System Software updates and secure flash storage that protect the heart of the system. Phoenix TrustedCore also includes the industry s first firmware visual development environment, Phoenix cME CoreArchitect. Phoenix cME CoreArchitect is integrated with Microsoft Visual Studio .NET, and provides Phoenix ODM and OEM partners with modular design and leading-edge visual development tools to deliver improved time to market and better return on investments in firmware development.

Phoenix cME TrustedCore Embedded is marketed to the rapidly-growing embedded system marketplace. As reported by industry analysts, the embedded device market is growing at a faster rate than the PC industry. According to IDC, a leading market research firm, more than 25 million x86-based devices will ship this year. Complex embedded product designs that leverage the x86 PC industry economics and supply chain are emerging in key sectors such as industrial control, car navigation, military systems, consumer electronics devices, point-of-sale devices, gaming and arcade systems, thin clients, test and measurement and medical devices. Although embedded devices are not traditional PCs, they still create high volumes of point-of-sale financial, customer, industrial and medical data and business critical content that requires them to be secure from the start, protected on a network and recovered if they become inoperable. Phoenix cME TrustedCore Embedded meets the growing demand for built-in security and trust by providing device authentication capabilities that transform digital devices into secure, trusted end points on the network.

FirstBIOS Product Family

Phoenix s FirstBIOS product family is Phoenix s high volume, CSS product family. The Phoenix FirstBIOS product family provides low-investment, high volume CSS functionality to PC and digital device manufacturers who do not require the network security and device authentication functionality of the Phoenix cME TrustedCore product family.

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Phoenix cME FirstBIOS provides extensibility for a range of core platform utilities and applications, faster boot times, and a ROM-based security framework for strong authentication. Phoenix cME FirstBIOS Desktop uses an innovative parallel-processing design to reduce boot times by up to 25 percent. Phoenix cME FirstBIOS Desktop incorporates an additional layer of BIOS protection using patent-pending StrongROM security technology.

During fiscal 2004, Phoenix continued to enhance these CSS/BIOS products to meet the current and emerging requirements of different types of systems built by the Company s manufacturing customers and to ease deployment and improve system manageability and serviceability.

Phoenix FirstWare and cME Console Product Family

Viruses, worms and other infections continue to barrage PCs, yet, according to market analysts, 60 percent of all data still resides on the individual PC as opposed to the network. Additionally, mobile users, and small and medium size businesses typically do not have access to a dedicated information technology staff, and are most susceptible to security breaches and infection. The Company s FirstWare product suite is targeted at protecting a user s data, and delivering fast, easy disaster recovery of data, applications and the OS in a protected, pre-OS environment.

The Phoenix FirstWare products are also targeted at reducing OEM, ODM and system builders manufacturing and technical support costs and product returns through innovative recovery and Instant-On capabilities. This suite includes a product to create a protected FirstWare space on a computer s hard disk. The Phoenix cME and FirstWare applications also help businesses and consumers diagnose and recover PCs and digital devices with little or no technical assistance and without recovery CDs if the OS crashes or will not boot.

Phoenix FirstWare applications products cover all aspects of starting, managing, securing, maintaining, and shutting down PCs and other intelligent digital devices, to allow users to enable, protect and recover their important data and X86-based PCs and digital devices. Phoenix FirstWare applications products can also be enabled on other companies BIOS products through an enablement module, albeit with less application security.

The Phoenix FirstWare product family includes the following application products:

FirstWare Recover allows easy restoration of an original hard drive image so workers can remain productive. The original factory image is stored in a tamper-proof, locked-down partition that only the Phoenix Core System Software can access. FirstWare Recover restores the original factory image (OS and applications software) without the need for a boot disk or recovery Compact Disks (CDs) for remote restoration.

Phoenix FirstWare Recover Pro gives mobile workers and small and medium size businesses built-in capabilities to recover and protect critical data and applications housed in PCs and restores the PC to any chosen point in the drive s history (including user data) without the need for a boot disk or recovery CDs for remote restoration.

Phoenix FirstWare Recover Pro Network is designed for small and medium size businesses with limited IT staff and provides central administration and local PC backup, and recovery functions for OS, applications, settings and user data protection.

Phoenix FirstWare Recover Pro 2004 is an innovative recovery software application for mobile workers and small and medium size businesses that includes built-in security protection for a PC user s critical data and applications. With Phoenix FirstWare Recover Pro 2004, users can automatically back up their PC operating system, applications, user settings, and data files and easily recover them in the event of a virus attack or system crash.

FirstWare Vault is a windows application that stores virtual CDs in the FirstWare protected area.

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Phoenix FirstWare Assistant is an application that provides users with instant access to their Microsoft Outlook Personal Information Management data and functions without having to wait to boot the PC, making it ideal for those crucial times when a user needs quick access to last-minute details such as the location of a meeting or a key phone number.

FirstWare ImageCast is disk preparation and duplication software to assist manufacturers and others involved in deploying new computers in the product suites. These disk tools are designed to rapidly install software on a new system s hard disk.

Phoenix cME Console is a software application foundation that secures and manages a PC s pre-OS software, tools, utilities, and other services benefiting both business and consumer users. Phoenix cME Console provides device OEMs and system builders with a tamper resistant, authenticated implementation of a protected hidden partition and easy-to-customize user interface (UI) that can not be over-written by virus or malware attacks, or even by the operating system (OS) itself. Phoenix cME Console includes innovative pre-configured functions designed to help system builders and PC OEMs differentiate their product offerings and generate new revenue streams through the support of pre-OS applications.

TrustConnector Product Family

Device authentication is a primary security concern for organizations with networks that span corporate headquarters, remote offices, business partners, and employees who work in the field, including governments, financial services institutions, healthcare providers and business enterprises. Phoenix cME TrustConnector is an advanced software product that enables authentication of devices connected to networks, making these devices trustworthy and protecting the networks against attacks. TrustConnector uses unique Phoenix technology to ensure that any x86 device connecting to an IP network is absolutely trusted or the connection is denied.

Phoenix cME TrustConnector enhances the security of certificate-based Windows applications. Private keys for these applications can now be stored securely on the device without requiring additional hardware by encrypting them with device profile information. As a universal cryptographic service provider (CSP) component for Windows machines, TrustConnector uses exclusive platform sensing technology to determine the specific hardware fingerprint of every x86 device. In this way, every device even if configured in exactly the same way can be uniquely identified.

Phoenix cME TrustConnector then uses this information both to authenticate devices to the network and to harden user credentials associating the correct user with the correct system and ensuring that credentials belong to and can only be used on the system to which they are issued

In 2004, Phoenix announced the successful joint development of SecureAccessTM, a new device authentication security solution with NTT Data Corporation, a leading systems integrator in Japan. The new SecureAccess product is built using Phoenix Core System Software and Phoenix cME TrustConnector products. NTT Data Corporation will market SecureAccess to security-conscious organizations in Japan such as governments and enterprises.

Currently only marketed and available in Japan through NTT Data Corporation, SecureAccess is a significant product development for Phoenix because it leverages the large installed base of Phoenix trust-enabled machines already deployed. SecureAccess controls the PCs and devices that can access corporate networks using the authentication functions of layer two switches, VPN gateways, and wireless LAN access points. Phoenix Core System Software provides security functions at the core of the device, while Phoenix cME TrustConnector enables seamless, built-in device authentication to IP networks. SecureAccess prevents unauthorized access of devices to networks and leakage of confidential information. It also protects networks from viruses and other threats by rejecting connections from unregistered or unauthorized devices.

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Sales and Marketing

The Company markets and sells its products and services through a global direct sales force, with sales offices in North America, Europe, Japan, and Asia Pacific, as well as through a network of regional distributors and sales representatives, OEMs, ODMs, resellers, value-added resellers, system integrators, system builders, and ISVs.

Customers: The Company s CSS/BIOS technology is targeted towards PC OEMs and ODMs, as well as certain embedded systems. The Company has licensed its CSS/BIOS technology to various global technology leaders, including:

Original Equipment Manufacturers		
Dell Computer Corporation	IBM Corporation	Samsung Electronics Co. Ltd.
Fujitsu Limited	Lenovo Group Ltd.	Sony Corporation
Fujitsu Siemens Computer	Matsushita Electronic Corp.	Toshiba, Inc.
Hewlett Packard Company	NEC Corporation	Sharp Corporation
Foxconn eMS, Inc.		

Original Design Manufacturers	MotherBoard	Non-PC Systems
Arima Computer Corporation	ASUSTeK Computer, Inc.	Motorola, Inc.
Compal Electronics, Inc.	Elitegroup Computer Systems, Inc.	NCR Corporation
First International Computer, Inc.	Gigabyte Technology Co., Ltd.	NEC Corporation
Quanta Corporation	Micro-Star International Co., Ltd.	Radisys Corporation
TriGem Computer, Inc.		Fastwel Co. Ltd.
Wistron Corporation		Advantech Co., Ltd.

The FirstWare products are largely sold to the Company s CSS/BIOS customers, as well as system builders. The Company s major customers for these products include Hewlett Packard Company, Fujitsu Ltd., International Business Machines, Samsung Electronics Co. Ltd., Hai Cheng (Shanghai) Information Technology Co. Ltd., Founder Computer Systems Co., Ltd., Lenovo Group Ltd., Unika and Gericom AG.

Phoenix cME TrustConnector customers include SafeNet Inc., a major vendor in the government and financial market industries and NTT Data Corporation, a leading systems integrator in Japan. SafeNet deployed Phoenix TrustConnector in its managed Virtual Private Network (VPN) service and Research in Motion (RIM) used the Simple Protocol for Exponential Key Exchange (SPEKE) technology from the Phoenix cME Security SDK (formerly FirstAuthority SDK) in its mobile networking products. Our major customer Nippon Telegraph and Telecommunications (NTT) Data Systems engaged with Phoenix to begin development of a suite of services to help their customers better manage security and the protection of intellectual property for enterprise networks.

Significant Customers. International Business Machines Corporation accounted for 11% of the Company s total revenues in fiscal 2004. Fujitsu Limited accounted for 12%, and 14% of the Company s total revenues in fiscal 2003, and 2002, respectively. No other customer accounted for more than 10% of total revenues in fiscal 2004, 2003, or 2002.

Competition: The Company competes for CSS/BIOS sales primarily with in-house research and development (R&D) departments of PC manufacturers that may have significantly greater financial and technical resources, as well as closer engineering ties and experience with

specific hardware platforms, than those of the Company. The Company believes that OEM/ODM customers often license the Company s system software products rather than develop these products internally in order to: (1) differentiate their system offerings with advanced features, (2) easily leverage the additional value of other Phoenix solutions, such as Phoenix cME StrongROM, (3) improve time to market, (4) reduce product development risks, (5) minimize product development and support costs, and/or (6) enhance compatibility with the latest industry standards.

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The Company also competes for system software business with other independent suppliers, including American Megatrends Inc., a privately held company, and other small BIOS companies such as General Software, Inc. and Insyde Software, Inc.

In the FirstWare applications software area, as with CSS/BIOS, the Company competes with in-house solutions to access the protected area of hard drives. The Company s applications that reside in the protected area compete with individual component software and diagnostic and repair software from other companies, as well as PC manufacturer-developed solutions. Price and product performance are the principal method of competition in this market. The Company leverages its existing business relationships, years of experience, intellectual property, and ability to provide integrated solutions on existing CSS/BIOS deployments as a competitive advantage against the competition.

The Company views its cME TrustConnector products as complementary to other security technologies including tokens, smart cards, and biometrics for the utilization of multi-factor security solutions by customers. Accordingly, customers using the Phoenix TrustConnector product family can maintain traditional security solutions that the customers have found to be effective, supplementing them with Phoenix products, while also replacing those the customers have found to be ineffective, difficult to maintain or costly to implement.

PRODUCT DEVELOPMENT

The Company constantly seeks to develop new products, maintain and enhance its current product lines, maintain technological competitiveness, and meet continually changing customer and market requirements. The Company s research and development expenditures in fiscal years 2004, 2003, and 2002 were $22.3 million, $27.1 million, and $30.2 million, respectively. All of Phoenix s expenditures for research and development have been expensed as incurred. At November 30, 2004, the Company s research and development and customer engineering group included 153 full-time employees.

INTELLECTUAL PROPERTY AND OTHER PROPRIETARY RIGHTS

The Company relies primarily on U.S. and foreign patents, trade secrets, trademarks, copyrights, and contractual agreements to establish and maintain proprietary rights in its technology. The Company has an active program to file applications for and obtain patents in the U.S. and in selected foreign countries where a potential market for its products exists. As of September 30, 2004, the Company had been issued 69 patents in the U.S. and has 43 patent applications in process in the United States Patent and Trademark Office. On a worldwide basis, the Company has been issued 129 patents with respect to its current product offerings and has 153 patent applications pending with respect to certain of the products it markets. There can be no assurance that any of these patents would be upheld as valid if challenged.

The Company s general policy has been to seek patent protection for those inventions and improvements likely to be incorporated in its products or otherwise expected to be of long-term value. The Company protects the source code of its products as trade secrets and as unpublished copyrighted works. It also initiates litigation where appropriate to protect its rights in that intellectual property. The Company licenses the source code for its products to its customers for limited uses. Wide dissemination of its software products makes protection of its proprietary rights difficult, particularly outside the United States. Although it is possible for competitors or users to make illegal copies of its products, the Company believes the rate of technology change and the continual addition of new product features lessen the impact of illegal copying.

In recent years, there has been a marked increase in the number of patents applied for and issued with respect to software products. Although the Company believes that its products do not infringe on any copyright or other proprietary rights of third parties, the Company has no assurance

that third parties will not obtain, or do not have, intellectual property rights covering features of its products, in which event the Company or its customers might be required to obtain licenses to use such features. If an intellectual property rights holder refuses to grant a license on reasonable terms or at all, the Company may be required to alter certain products or stop marketing them.

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EMPLOYEES

As of November 30, 2004 Phoenix employed 425 full-time employees worldwide, of whom 153 were in research and development and customer engineering, 198 were in sales and marketing, and 74 were in general administration. Phoenix s employees are not represented by a labor organization, and the Company has never experienced a work stoppage. The Company considers its employee relations to be satisfactory.

COMPLIANCE WITH ENVIRONMENTAL REGULATIONS

To the Company s present knowledge, compliance with federal, state and local provisions enacted or adopted for protection of the environment has had no material effect upon its operations.

ITEM 2. PROPERTIES

In fiscal 2003, the Company entered into a ten-year facility lease for approximately 86,000 square feet of office space in Milpitas, California for the Company s headquarters. In fiscal 1997, the Company entered into a five-year lease agreement for an approximately 49,000 square foot facility in Irvine, California, with an additional seven year renewal starting fiscal 2002. During fiscal 2003, the Company signed a contract to sublease part of its Irvine location for the remainder of its lease term. During fiscal 2004 the Company subleased the remaining available space in the Irvine location to two sub tenants with one lease running until November 2007 and the other lease running until April 2009. The Company also leases office facilities in other locations including: Norwood, Massachusetts; Beaverton, Oregon; and Austin, Texas; Taipei, Taiwan; Hong Kong; Shanghai, Beijing, and Nanjing, China; Tokyo and Osaka, Japan; Seoul, Korea; Munich, Germany; and Maarssen, The Netherlands. These offices range from small sales offices to approximately 21,000 square feet of office space and generally provide engineering, sales, and technical support to customers. During fiscal 2004, the Company closed offices in Brookfield, Wisconsin; Shenzhen, China and Budapest, Hungary.

The Company considers its leased properties to be in good condition, well maintained, and generally suitable for their present and foreseeable future needs. The Company believes its facilities are adequate for its current needs and that suitable additional or substitute space will be available as needed to accommodate any expansion of its operations.

ITEM 3. LEGAL PROCEEDINGS

The Company is subject to certain routine legal proceedings that arise in the normal course of its business. The Company believes that the ultimate amount of liability, if any, for any pending claims of any type (either alone or combined), including the legal proceedings described below, will not materially affect the Company s results of operations, liquidity, or financial position taken as a whole. However, the ultimate outcome of any litigation is uncertain, and unfavorable outcomes could have a material adverse impact. Regardless of outcome, litigation can have an adverse impact on the Company due to defense costs, diversion of management resources, and other factors.

Korean Electronic Certification Authority, Inc. v. Phoenix Technologies Ltd. and Phoenix Technologies (Hungary) Software Licensing, LLC. On April 21, 2003, the Korean Electronic Certification Authority, Inc., doing business as CrossCert, Inc. (CrossCert), filed a motion (the Preliminary Attachment Motion) in the Suwon District Court in Seoul, Korea, without notice to Phoenix, for a preliminary attachment under Korean law on Phoenix s expected payments from another Phoenix customer, Samsung Electronics Co., Ltd. (Samsung). CrossCert obtained the preliminary attachment on April 21, 2003 in the amount of KRW 496,608,750, or approximately USD $412,000, which effectively enjoined a payment owing to the Company by Samsung. CrossCert s claim relates to a March 30, 2001 license agreement (the CrossCert Agreement) between CrossCert and Phoenix, under which Phoenix licensed certain software to CrossCert. Phoenix subsequently assigned its rights in the CrossCert Agreement to an affiliate, Phoenix Technologies (Hungary) Software Licensing, LLC (Phoenix-Hungary).

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On June 14, 2003, CrossCert filed a complaint in the Suwon District Court in Seoul, Korea against both Phoenix and Phoenix-Hungary for breach of contract, seeking a return of the payments made under the CrossCert Agreement in the amount of approximately USD $825,000, plus interest under Korean law. Phoenix subsequently filed an objection to the Korean s court s jurisdiction over the dispute based on a choice of forum clause in the CrossCert Agreement in which the parties agreed to the exclusive jurisdiction of the courts in Santa Clara County, California for any disputes arising out of the CrossCert Agreement. In October 2003, the Korean court dismissed CrossCert s suit against Phoenix for lack of jurisdiction. Phoenix then filed a motion for cancellation of the preliminary attachment. On November 24, 2004, the Korean court denied Phoenix s motion to cancel the preliminary attachment, and ruled that the preliminary attachment can remain in place because of the pendency of the U.S.-based lawsuit involving the parties (described below). No other deadlines are presently set.

Phoenix Technologies Ltd. and Phoenix Technologies (Hungary) Software Licensing, LLC v. Korean Electronic Certification Authority, Inc. On May 7, 2003, Phoenix and Phoenix-Hungary filed suit against CrossCert in Santa Clara County Superior Court in the United States of America for breach of contract, interference with contract, interference with prospective economic advantage and unfair competition under California Business and Professions Code Sections 17200 et seq. The claims in this case relate to the CrossCert Agreement and CrossCert s wrongful filing of the Preliminary Attachment Motion in Korea and its interference with Phoenix s contractual relationship with Samsung. Phoenix seeks damages in the amount of $150,000 for CrossCert s failure to pay software maintenance fees, as well as all damages caused by CrossCert s wrongful conduct with respect to its filing of the Preliminary Attachment Motion in Korea and interference with prospective economic advantage, including lost goodwill, the extent of which is presently unknown. CrossCert filed a cross-complaint against Phoenix on October 24, 2003 for breach of contract, fraud and unfair competition under California Business and Professions Code Sections 17200 et seq. The parties are attempting to mediate the dispute, and conducted an initial mediation of the case on August 6, 2004. The parties did not reach a settlement in that initial mediation conference. The court continued the Trial Setting Conference until January 25, 2005 to allow discovery to be conducted. A trial date will likely be set for early in 2005.

USA & Regal Groups, Inc. d.b.a. Sterling Pacific v. Phoenix Technologies Ltd. d.b.a. Phoenix Technologies Asia Pacific, Ltd., Phoenix Technologies Asia Pacific, Ltd., Al Sisto, David Gibbs, George Man and Does 1 through 100, inclusive. On June 10, 2004, Sterling Pacific filed a complaint against Phoenix in Orange County Superior Court for fraud, negligent misrepresentation, breach of contract, rescission, violation of California Business and Professions Code Sections 17200 et seq., economic duress and common count. The claim arises from a March 31, 2004 Manufacturing License and Distribution Agreement between a subsidiary of Phoenix and Sterling Pacific, under which the Phoenix subsidiary licensed certain technology to Sterling Pacific for the purpose of manufacturing and distributing a Sterling Pacific hardware product. Sterling Pacific seeks return of the amounts paid (USD $350,000) as well as exemplary damages for the alleged fraud.

The parties have agreed that this suit will be dismissed in Orange County and re-filed in Santa Clara County. The complaint was filed in Santa Clara County on September 21, 2004. Phoenix filed a demurrer to the complaint on December 1, 2004, claiming that Sterling Pacific lacks the standing and capacity to sue. The hearing on that demurrer will be in early February 2005. Although the court had originally scheduled the initial case management conference for January 25, 2005, that date will likely be continued to a later date given the pendency of the demurrer. No other deadlines have been set in this case.

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

None.

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EXECUTIVE OFFICERS OF PHOENIX TECHNOLOGIES LTD.

The executive officers of the Company serve at the discretion of the Board of Directors of Phoenix. As of the filing date of this Form 10-K, executive officers of the Company are as follows:

Name	Age	Position
Albert E. Sisto	55	Chairman, President, and Chief Executive Officer
Randall C. Bolten	52	Senior Vice President, Finance and Administration and Chief Financial Officer
W. Curtis Francis	55	Senior Vice President & General Manager, System Products Engineering Division
David L. Gibbs	47	Senior Vice President & General Manager, Global Sales and Support Division
Magda M. Madriz	52	Vice President, Human Resources & Organizational Development
Michael J. Vanneman	47	Senior Vice President and General Manager of the Business Development and Strategic Accounts Division
Michael D. Goldgof	39	Senior Vice President and General Manager of the Corporate Marketing and Products Division
Scott C. Taylor	40	Vice President, General Counsel and Secretary
Ramesh V. Kesanupalli	39	Senior Vice President of the Applications Products Engineering Division

BIOGRAPHIES

Mr. Sisto joined the Company as President and Chief Executive Officer and was appointed to the Board of Directors in June 1999. He was elected Chairman of the Board of Directors in January 2000. Prior to joining the Company, Mr. Sisto was Chief Operating Officer of RSA Security Inc. (a company that provides information security and identity management solutions) from 1997 to 1999. He served as President, Chairman of the Board and Chief Executive Officer of DocuMagix, Inc. from 1994 to 1997. From 1989 to 1994, Mr. Sisto was President and Chief Executive Officer of PixelCraft, Inc. Mr. Sisto currently serves as a Director of Hifn, Inc. Mr. Sisto holds a bachelor s degree in engineering from the Stevens Institute of Technology.

Mr. Bolten joined the Company as Senior Vice President of Finance and Administration and Chief Financial Officer in June 2003. Prior to joining the Company, he served as a consultant providing interim Chief Financial Officer-services to entrepreneurial companies from 2001 to 2003. Mr. Bolten was Chief Financial Officer and Executive Vice President of Operations for BroadVision, Inc. (a company that provides Internet applications that enable organizations to unify their e-business infrastructure) from 1995 to 2001. From 1992 to 1994, Mr. Bolten served as Chief Financial Officer of BioCAD Corporation. From 1990 to 1992, Mr. Bolten was Chief Financial Officer of the Business Development Division, and then Vice President of Finance at Teknekron. Mr. Bolten holds a bachelor s degree in economics from Princeton University and an MBA degree from Stanford University.

Mr. Francis joined the Company as Senior Vice President and General Manager of the Corporate Engineering and Planning Division in October 2001, and currently holds the title of Senior Vice President and General Manager of the System Products Engineering Division. Prior to joining the Company, he served as Vice President of Corporate Development for Quantum Corporation (a company that provides data storage, backup and recovery solutions) from 1998 to 2001. From 1995 to 1998, Mr. Francis was Vice President of Corporate Development and Strategic Planning at Advanced Micro Devices, Inc. Mr. Francis served as Vice President of Corporate Development at Sun Microsystems, Inc. from 1993 to 1995. Mr. Francis holds a bachelor s degree in engineering and applied science from Yale University, a master s degree in electrical engineering from the Massachusetts Institute of Technology and an MBA degree from Harvard University.

Mr. Gibbs joined the Company as Vice President of Business Development in March 2001, was promoted to Senior Vice President and General Manager of the Information Appliance Division in May 2001, and became

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Senior Vice President and General Manager of the Global Sales and Support Division in October 2001. Prior to joining the Company, Mr. Gibbs served as Vice President, Sales and Asia Pacific Strategic Accounts Manager at FlashPoint Technologies (a company that provides embedded software solutions) from 1998 to 2001. From 1997 to 1998, Mr. Gibbs was Vice President of Sales at DocuMagix, Inc. Mr. Gibbs held a number of executive sales and business development positions with Insignia Solutions from 1993 to 1997. Mr. Gibbs holds a bachelor s degree in economics from the University of California at Los Angeles.

Ms. Madriz joined the Company as Vice President of Human Resources & Organizational Development in October 2000. Prior to joining the Company, she served as Director of Human Resources for Xicor, Inc. (now Intersil Corporation, a company that manufactures analog semiconductors) from 1990 to 2000. From 1980 to 1984, Ms. Madriz served as Division Senior Human Resources Manager for Atari, Inc. Prior to joining Atari, Inc., Ms. Madriz held a number of Human Resources positions with Dysan Corporation and Federated Department Stores, Inc. Ms. Madriz holds a bachelor s degree in business and art history from the University of Pavia.

Mr. Vanneman joined the Company as Vice President of Sales for the Americas in July 2003, and became Senior Vice President and General Manager of the Business Development and Strategic Accounts Division in March 2004. Prior to joining the Company, Mr. Vanneman was President and Chief Executive Officer of Metasound Systems, Inc. (a company that provides audio marketing message services) from 2001 to 2003. From 1999 to 2000, Mr. Vanneman served as Vice President of Sales at Driveway Corporation (a company that provided online data storage solutions). Mr. Vanneman was Vice President of Sales at Release Software from 1997 to 1999. Mr. Vanneman holds a bachelor s degree in sociology from the University of California at Los Angeles.

Mr. Goldgof joined the Company as Vice President of Product Marketing in October 2003, and was promoted to Senior Vice President and General Manager of the Corporate Marketing and Products Division in March 2004. Prior to joining the Company, Mr. Goldgof was Director of Marketing at VeriSign Inc. (a company that provides Internet and telecommunications network infrastructure services) from 2002 to 2003. From 2001 to 2002, Mr. Goldgof served as Executive Vice President of Sales and Marketing for Kinera, Inc. (now Telsima, Inc., a company that provides converged telecommunications network solutions). Mr. Goldgof served as General Manager for Avaya Inc. (a company that provides communications systems, applications and services) from 1990 to 2001. Mr. Goldgof holds a bachelor s degree and master s degree in electrical engineering from Cornell University, and an MBA degree from Columbia University.

Mr. Taylor joined the Company as Associate General Counsel in January 2002, and was promoted to Vice President, General Counsel and Secretary in January 2004. Prior to joining the Company, Mr. Taylor was Vice President and General Counsel of Narus, Inc. (a company that provides Internet and telecommunications network management solutions) from 2000 to 2001. Mr. Taylor served first as Corporate Counsel and then as Director of the Legal Department at Symantec Corporation (a company that provides computer utility and information security solutions) from 1998 to 2000. Mr. Taylor was a commercial and corporate transactions attorney with the San Francisco-based law firm Pillsbury Winthrop from 1992 to 1998. Mr. Taylor holds a bachelor s degree in International Relations from Stanford University and a juris doctor degree from George Washington University.

Mr. Kesanupalli joined the Company as Vice President of Applications Systems and Engineering in July 2004, and was promoted to Senior Vice President of the Applications Products Engineering Division in November 2004. Prior to joining the Company, Mr. Kesanupalli was the founder and Chief Executive Officer of Kinera, Inc. (now Telsima, Inc., a company that provides converged telecommunications network solutions) from 1999 to 2003. From 1995 to 1999, Mr. Kesanupalli was the founder, President and Chief Executive Officer of Object Connect Inc. Mr. Kesanupalli currently serves as Chairman of the Board of Directors for Intensa Inc. Mr. Kesanupalli holds a bachelor s degree in electronics engineering from the Madras Institute of Technology and a bachelor s degree in physics from Nagarjuna University.

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PART II

ITEM 5. MARKET FOR REGISTRANT S COMMON STOCK, RELATED STOCKHOLDER MATTERS, AND ISSUER PURCHASES OF EQUITY SECURITIES

The Company s common stock is traded on the NASDAQ National Market under the symbol PTEC. The following table sets forth, for the periods indicated, the highest and lowest closing sale prices for the Company s common stock, as reported by the Nasdaq National Market.

	High	Low
Year ended September 30, 2004		
Fourth quarter	$ 7.00	$ 4.83
Third quarter	7.02	5.23
Second quarter	8.32	4.94
First quarter	9.10	5.89
Year ended September 30, 2003		
Fourth quarter	$ 7.35	$ 5.46
Third quarter	6.08	4.06
Second quarter	7.14	4.25
First quarter	7.68	3.12

The Company had 207 shareholders of record as of November 30, 2004. To date, the Company has paid no cash dividends on its common stock. The Company currently intends to retain all earnings for use in its business and does not anticipate paying any dividends in the foreseeable future.

The Company did not repurchase any of its equity securities during the fourth quarter of its fiscal year ended September 30, 2004.

ITEM 6. SELECTED CONSOLIDATED FINANCIAL DATA

The selected financial data below includes business combinations described in Note 3 to the Consolidated Financial Statements and reflects the disposition of the Company s ownership interest in inSilicon as discontinued operations in September 2002, as described in Note 4 to the Consolidated Financial Statements. The results of operations for any period are not necessarily indicative of the results to be expected for any future period.

Consolidated Statements of Operations Data

(In thousands, except per share data)

	For the Years ended September 30,				
	2004	**2003**	**2002**	**2001**	**2000**
Revenues:					
License fees	**$ 83,182**	$ 81,312	$ 84,806	$ 90,229	$ 106,158
Services	**3,568**	4,096	8,274	12,129	13,551
Total Revenues	**86,750**	85,408	93,080	102,358	119,709
Gross margin	**71,558**	68,238	79,173	84,320	101,318
Income (loss) from continuing operations	**449**				