

ADVANCED ANALOGIC TECHNOLOGIES INC
Form SC TO-C
December 05, 2011

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the

Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): November 29, 2011

Skyworks Solutions, Inc.

(Exact Name of Registrant as Specified in Charter)

Delaware
(State or Other Jurisdiction

of Incorporation)

1-5560
(Commission

File Number)

04-2302115
(IRS Employer

Identification No.)

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20 Sylvan Road, Woburn, MA
(Address of Principal Executive Offices)

01801
(Zip Code)

Registrant's telephone number, including area code: (781) 376-3000

Not applicable.

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

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (*see* General Instruction A.2. below):

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- ☒ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01. Entry into a Material Definitive Agreement.

Settlement Agreement and Mutual Release

On November 29, 2011, Skyworks Solutions, Inc., a Delaware corporation (Skyworks), and Advanced Analogic Technologies Incorporated, a Delaware corporation (AATI), entered into a Settlement Agreement and Mutual Release (the Settlement Agreement), settling the arbitration claims they had asserted under their May 26, 2011 Agreement and Plan of Merger (a copy of which was heretofore filed as an exhibit to the now-withdrawn Registration Statement of Skyworks on Form S-4, File No. 333-174953, and which is hereby re-filed as Exhibit 2.2 hereto) (the Merger Agreement). Pursuant to the Settlement Agreement, each company agreed to (i) enter into an amendment to the Merger Agreement (described below), (ii) voluntarily dismiss with prejudice the claims asserted against each other that were the subject of arbitration proceedings pending in the Delaware Court of Chancery, No. 004-A-CS and 005-A-CS (the Arbitration Proceedings), (iii) jointly issue the press release filed as Exhibit 99.1 to the Schedule TO-C filed with the SEC by Skyworks on November 30, 2011, (iv) release the other party and its respective officers, directors, stockholders, employees, advisors, representatives and other related parties from all claims, demands, rights, actions or causes of actions, liabilities, damages, losses, obligations, judgments, suits, fees, expenses, costs, matters and issues of any kind or nature whatsoever, including any claims which could form the basis of a termination for cause, in existence prior to the execution of the Settlement Agreement, and (v) agreed to bear its own legal fees and costs incurred in connection with the arbitration proceedings. On November 30, 2011, the Hon. Leo E. Strine, Jr., Chancellor of the Delaware Court of Chancery, acting as arbitrator in the Arbitration Proceedings, entered an order dismissing the petitions in the Arbitration Proceedings and the claims asserted therein with prejudice.

The foregoing description of the Settlement Agreement is only a summary, does not purport to be complete and is qualified in its entirety by reference to the Settlement Agreement, a copy of which is filed as Exhibit 99.1 hereto and is incorporated herein by reference.

Amendment No. 1 to Agreement and Plan of Merger

On November 30, 2011, Skyworks, PowerCo Acquisition Corp., a Delaware corporation and a wholly owned subsidiary of Skyworks (Merger Sub), and AATI entered into Amendment No. 1 to the Merger Agreement (the Amendment), modifying the price, structure, conditions and other terms of Skyworks pending proposed acquisition of AATI. Pursuant to the Amendment, the one-step merger transaction at \$6.13 per share in cash and stock contemplated by the May 26, 2011 Merger Agreement has been restructured as an all-cash two-step transaction at \$5.80 per share.

In the first step of the transaction, upon the terms and subject to the conditions set forth in the Amendment, Skyworks has agreed to commence within seven business days (i.e., by December 9, 2011) a cash tender offer for any and all outstanding shares of AATI common stock (the Offer) at a purchase price of \$5.80 per share in cash (the Offer Price). The consummation of the Offer will be conditioned on (i) at least a majority of the outstanding shares of AATI s common stock having been validly tendered and not properly withdrawn pursuant to the Offer prior to the expiration date of the Offer, (ii) the Merger Agreement having not been terminated in accordance with its terms, (iii) AATI having complied with certain interim covenants regarding conduct of its business, (iv) the representations and warranties of AATI concerning certain capitalization matters being true and correct as of the date of the Amendment, and (v) no governmental authority enacting, issuing, promulgating, enforcing or entering any order, executive order, stay, decree, judgment or injunction (preliminary or permanent) prohibiting the consummation of the Offer or the Merger (as defined below). The Offer will not be subject to financing.

In the second step of the transaction, following (and subject to) the consummation of the Offer and subject to certain further customary conditions (specifically, receipt of the requisite approval of AATI s stockholders (if required under applicable law), and no governmental authority having enacted, issued, promulgated, enforced or entered any order, executive order, stay, decree, judgment or injunction (preliminary or permanent) prohibiting consummation of the merger), Merger Sub will be merged with and into AATI (the Merger) and AATI will become a wholly owned subsidiary of Skyworks. In the Merger, each share of AATI s common stock then

outstanding (other than shares already purchased in the Offer and other than shares for which appraisal rights have been properly exercised under Delaware law) will be converted into the right to receive an amount equal to the Offer Price. Skyworks may, but is not required to, provide for a subsequent offering period under federal securities law following the expiration of the Offer. In addition, AATI has granted Skyworks a top-up option to acquire shares of AATI's common stock in order to facilitate the consummation of the Merger using such short form merger procedures. The top-up option is exercisable any time after the first time at which Skyworks accepts for payment any shares of AATI common stock pursuant to the Offer. If Skyworks acquires 90% or more of the outstanding shares of AATI's common stock pursuant to the Offer, the subsequent offering period (if any) and the top-up option, then Skyworks will consummate the Merger pursuant to the short form merger procedures under Delaware law as soon as practicable following the consummation of the Offer without a vote or any further action by the holders of AATI's common stock. If Skyworks does not acquire at least 90% of AATI's outstanding common stock, a majority of the outstanding shares of common stock must be voted to adopt the Merger Agreement before the Merger can be completed. In this event, AATI will call and convene a stockholder meeting to obtain this approval, and Skyworks will vote all shares of AATI common stock it holds in favor of adoption of the Merger Agreement, thereby assuring approval.

Other than as expressly modified pursuant to the Amendment, the Merger Agreement remains in full force and effect as originally executed on May 26, 2011. The foregoing description of the Amendment is only a summary, does not purport to be complete and is qualified in its entirety by reference to the Amendment, a copy of which is filed as Exhibit 2.1 hereto and is incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

2.1 Amendment No. 1 to Agreement and Plan of Merger, dated November 30, 2011 by and among Skyworks Solutions, Inc., PowerCo Acquisition Corp., and Advanced Analogic Technologies Incorporated

2.2 Agreement and Plan of Merger, dated as of May 26, 2011, by and among Skyworks Solutions, Inc., PowerCo Acquisition Corp., and Advanced Analogic Technologies Incorporated

99.1 Settlement Agreement, dated November 29, 2011, by and among Skyworks Solutions, Inc., PowerCo Acquisition Corp., and Advanced Analogic Technologies Incorporated

Additional Information and Where to Find It

Skyworks will file a Tender Offer Statement on Schedule TO and AATI will file a Solicitation/Recommendation Statement on Schedule 14D-9 with the Securities and Exchange Commission (SEC) in connection with the amended merger agreement and tender offer. Security holders are advised to read the Tender Offer Statement (and the exhibits thereto) and the Solicitation/Recommendation Statement when they are available because they will contain important information. Investors can obtain the Tender Offer Statement (including exhibits) when it is filed by Skyworks, the Solicitation/Recommendation Statement when it is filed by AATI, and other documents filed by Skyworks and/or AATI for free at the web site of the U.S. Securities and Exchange Commission at <http://www.sec.gov>. In addition, investors and security holders can obtain free copies of the documents filed by Skyworks with the SEC from Skyworks by contacting Skyworks Investor Relations at (949) 231-4700 or by accessing Skyworks investor relations website at <http://www.skyworksync.com>, and free copies of the documents filed by AATI with the SEC from AATI by contacting AATI's Investor Relations at The Blueshirt Group, Lisa Laukkanen, at (415) 217-4967 or by accessing Advanced Analogic Technologies investor relations website at <http://www.analogictech.com>.

SIGNATURE

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

SKYWORKS SOLUTIONS, INC.

Date: December 5, 2011

/s/ Mark V. B. Tremallo
Mark V. B. Tremallo
Vice President, General Counsel and Corporate Secretary

EXHIBIT INDEX

Exhibit

Number

Description

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