AMYRIS, INC.
Form 10-Q
May 10, 2016

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington D.C. 20549

FORM 10-Q

(Mark One)

x **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended March 31, 2016

OR

o **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the Transition Period from to

Commission File Number: 001-34885

AMYRIS, INC.

(Exact name of registrant as specified in its charter)

Delaware **55-0856151**

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

Amyris, Inc.

5885 Hollis Street, Suite 100

Emeryville, CA 94608

(510) 450-0761

(Address and telephone number of principal executive offices)

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 o

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuance to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes x No o

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer.

Large accelerated filer	o	Accelerated filer	x
Non-accelerated filer	o	Smaller reporting company	o

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes o No x

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.

Class	**Outstanding at April 30, 2016**

Common Stock, $0.0001 par value per share	211,173,206

AMYRIS, INC.

QUARTERLY REPORT ON FORM 10-Q

For the Quarterly Period Ended March 31, 2016

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PART I

ITEM 1. FINANCIAL STATEMENTS

Amyris, Inc.

Condensed Consolidated Balance Sheets

(In Thousands, Except Shares and Per Share Amounts)

(Unaudited)

	March 31, 2016	December 31, 2015
Assets		
Current assets:		
Cash and cash equivalents	$7,826	$11,992
Restricted cash	243	216
Short-term investments	1,444	1,520
Accounts receivable, net of allowance of $479 and $479, respectively	5,653	4,004
Related party accounts receivable, net of allowance of $584 and $490, respectively	1,250	1,176
Inventories, net	7,586	10,886
Prepaid expenses and other current assets	3,661	4,583
Total current assets	27,663	34,377
Property, plant and equipment, net	61,776	59,797
Restricted cash	957	957
Equity and loans in affiliates	34	68
Other assets	11,115	10,357
Goodwill and intangible assets	560	560
Total assets	$102,105	$106,116
Liabilities and Stockholders' Deficit		
Current liabilities:		
Accounts payable	$7,737	$7,943
Deferred revenue	5,339	6,509
Accrued and other current liabilities	25,909	24,268
Capital lease obligation, current portion	477	523
Debt, current portion	51,715	36,281
Related party debt	3,611	—
Total current liabilities	94,788	75,524
Capital lease obligation, net of current portion	163	176
Long-term debt, net of current portion	56,471	72,854
Related party debt	58,563	42,839
Deferred rent, net of current portion	9,519	9,682
Deferred revenue, net of current portion	4,469	4,469

Derivative liabilities	29,108	51,439
Other liabilities	5,813	7,589
Total liabilities	258,894	264,572
Commitments and contingencies (Note 6)		
Stockholders’ deficit:		
Preferred stock - $0.0001 par value, 5,000,000 shares authorized, none issued and outstanding	—	—
Common stock - $0.0001 par value, 400,000,000 and 400,000,000 shares authorized as of March 31, 2016 and December 31, 2015, respectively; 207,914,096 and 206,130,282 shares issued and outstanding as of March 31, 2016 and December 31, 2015, respectively	21	21
Additional paid-in capital	938,227	926,216
Accumulated other comprehensive loss	(42,511)	(47,198)
Accumulated deficit	(1,052,412)	(1,037,104)
Total Amyris, Inc. stockholders’ deficit	(156,675)	(158,065)
Noncontrolling interest	(114)	(391)
Total stockholders' deficit	(156,789)	(158,456)
Total liabilities and stockholders' deficit	$102,105	$106,116

See the accompanying notes to the unaudited condensed consolidated financial statements.

Amyris, Inc.

Condensed Consolidated Statements of Operations

(In Thousands, Except Shares and Per Share Amounts)

(Unaudited)

	Three Months Ended March 31,	
	2016	2015
Revenues		
Renewable product sales	$3,140	$2,095
Grants and collaborations revenue	5,671	5,777
Total revenues	8,811	7,872
Cost and operating expenses		
Cost of products sold	11,178	6,643
Research and development	11,906	12,010
Sales, general and administrative	12,266	14,381
Total cost and operating expenses	35,350	33,034
Loss from operations	(26,539)	(25,162)
Other income (expense):		
Interest income	57	86
Interest expense	(8,359)	(8,482)
Gain (loss) from change in fair value of derivative instruments	21,678	(17,412)
Loss upon extinguishment of debt	(216)	—
Other expense, net	(1,814)	(369)
Total other income (expense)	11,346	(26,177)
Loss before income taxes and loss from investments in affiliates	(15,193)	(51,339)
Benefit from income taxes	(115)	(115)
Net loss before loss from investments in affiliates	(15,308)	(51,454)
Loss from investments in affiliates	—	(808)
Net loss	(15,308)	(52,262)
Net loss attributable to noncontrolling interest	—	22
Net loss attributable to Amyris, Inc. common stockholders	$(15,308)	$(52,240)
Net loss per share attributable to common stockholders:		
Basic	$(0.07)	$(0.66)
Diluted	$(0.12)	$(0.66)
Weighted-average shares of common stock outstanding used in computing net loss per share of common stock:		
Basic	207,199,563	79,222,051
Diluted	260,932,085	79,222,051

See the accompanying notes to the unaudited condensed consolidated financial statements.

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Amyris, Inc.

Condensed Consolidated Statements of Comprehensive Loss

(In Thousands)

(Unaudited)

	Three Months Ended March 31,	
	2016	2015
Comprehensive loss:		
Net loss	$(15,308)	$(52,262)
Foreign currency translation adjustment, net of tax	4,687	(11,245)
Total comprehensive loss	(10,621)	(63,507)
Loss attributable to noncontrolling interest	—	22
Foreign currency translation adjustment attributable to noncontrolling interest	—	(267)
Comprehensive loss attributable to Amyris, Inc.	$(10,621)	$(63,752)

See the accompanying notes to the unaudited condensed consolidated financial statements.

Amyris, Inc.

Condensed Consolidated Statements of Stockholders' Deficit

(In Thousands, Except Shares)

(Unaudited)

	Common Stock						
	Shares	Amount	Additional Paid-in Capital	Accumulated Deficit	Accumulated Other Comprehensive Loss	Noncontrolling Interest	Total Deficit
December 31, 2015	206,130,282	$ 21	$926,216	$(1,037,104)	$ (47,198)	$ (391)	$(158,456)
Issuance of common stock upon exercise of stock options, net of restricted stock	134	—	—	—	—	—	0
Issuance of common stock upon conversion of debt	1,595,382	—	2,075	—	—	—	2,075
Issuance of warrants with debt private placement	—	—	3,971	—	—	—	3,971
Shares issued from restricted stock settlement	188,298	—	(48)	—	—	—	(48)
Stock-based compensation	—	—	2,051	—	—	—	2,051
Contribution upon restructuring of Fuels JV	—	—	4,252	—	—	—	4,252
Acquisition of noncontrolling interest	—	—	(290)	—	—	277	(13)
Foreign currency translation adjustment	—	—	—	—	4,687	—	4,687
Net loss	—	—	—	(15,308)	—	—	(15,308)
March 31, 2016	207,914,096	$ 21	$938,227	$(1,052,412)	$ (42,511)	$ (114)	$(156,789)

See the accompanying notes to the unaudited condensed consolidated financial statements.

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Amyris, Inc.

Condensed Consolidated Statements of Cash Flows

(In Thousands)

(Unaudited)

	Three Months Ended March 31,	
	2016	2015
Operating activities		
Net loss	$(15,308)	$(52,262)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	2,869	3,490
Loss on disposal of property, plant and equipment	(37)	26
Stock-based compensation	2,051	2,652
Amortization of debt discount	2,994	3,222
Loss upon extinguishment of debt	216	—
Change in fair value of derivative instruments	(21,678)	17,412
Loss from investments in affiliates	—	808
Loss on foreign currency exchange rates	1,117	—
Changes in assets and liabilities:		
Accounts receivable	(1,484)	4,405
Related party accounts receivables	(300)	(196)
Inventories, net	3,870	2,227
Prepaid expenses and other assets	1,288	376
Accounts payable	(810)	382
Accrued and other liabilities	2,924	4,782
Deferred revenue	(1,292)	9,512
Deferred rent	(163)	(112)
Net cash used in operating activities	(23,743)	(3,276)
Investing activities		
Purchase of short-term investments	(1,377)	(877)
Maturities of short-term investments	1,627	893
Change in restricted cash	13	—
Purchases of property, plant and equipment, net of disposals	(271)	(1,084)
Net cash used in investing activities	(8)	(1,068)
Financing activities		
Employees' taxes paid upon vesting of restricted stock units	(48)	—
Principal payments on capital leases	(160)	(365)
Proceeds from debt issued to related party	20,000	10,850
Principal payments on debt	(729)	(3,167)
Net cash provided by financing activities	19,063	7,318
Effect of exchange rate changes on cash and cash equivalents	522	(1,240)
Net (decrease)/increase in cash and cash equivalents	(4,166)	1,734
Cash and cash equivalents at beginning of period	11,992	
	4,245,721	4,445,370

Reserve for obsolescence	(1,684,733)	(1,555,151)
Total, net	$ 2,560,988	$ 2,890,219

5. PROPERTY AND EQUIPMENT

Property and equipment consisted of the following:

	June 30, 2009	September 30, 2008
Machinery and equipment	$ 635,832	$ 511,464
Office furniture and equipment	838,720	821,121
Leasehold improvements	262,258	260,591
	1,736,810	1,593,176
Accumulated depreciation	(1,452,572)	(1,301,082)
Property and equipment, net	$ 284,238	$ 292,094

Included in office furniture and equipment at June 30, 2009 and September 30, 2008 was $420,438 and $411,963, respectively, for purchased software, which is being amortized over three years. The unamortized portion of software at June 30, 2009 and September 30, 2008 was $14,046 and $13,755, respectively.

Depreciation expense, excluding amortization of software, was $143,308 and $167,394 for the nine months ended June 30, 2009 and 2008, respectively. Amortization of purchased software was $8,183 and $20,288 for the nine months ended June 30, 2009 and 2008, respectively.

6. PATENTS

Patents consisted of the following:

	June 30, 2009	September 30, 2008
Cost	$ 1,579,346	$ 1,662,787
Accumulated amortization	(662,627)	(604,601)
Patents, net	$ 916,719	$ 1,058,186

Amortization expense for the Company s patents was $81,242 and $93,283 for the nine months ended June 30, 2009 and 2008, respectively.

Each quarter, the Company reviews the ongoing value of its capitalized patent costs. In the first nine months of fiscal 2009, some of these assets were identified as being associated with patents that are no longer consistent with its business strategy. As a result of this review, the Company reduced the value of previously capitalized patents by $88,895 during the nine months ended June 30, 2009, compared to a reduction of $310,347 from the impairment of patents in the nine months ended June 30, 2008.

7. INCOME TAXES

An income tax expense has not been recorded in the three and nine months ended June 30, 2009 based upon the year to date pretax net income as the Company s projected effective tax rate for the year ending September 30, 2009 will remain zero. The effective tax rate is projected to remain zero as any income recognized for the year will permit a decrease in the valuation allowance for net operating loss carryforwards that existed at the beginning of the year. The Company has not recorded a tax provision in either the three or nine months ended June 30, 2009.

8. SHARE-BASED COMPENSATION

Stock Option Plans

At June 30, 2009, the Company had two equity incentive plans. The 2002 Stock Option Plan (2002 Plan) was terminated with respect to new grants in April 2005 but remains in effect for grants issued prior to the termination. The 2005 Equity Incentive Plan (2005 Plan), as amended, authorizes for issuance as stock options, stock appreciation rights, or stock awards an aggregate of

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3,250,000 new shares of common stock to employees, directors or consultants, plus the 1,749,564 shares remaining eligible for issuance under the 2002 Plan for a total plan reserve of 4,999,564. The current plan reserve at June 30, 2009, net of exercises, allows for the issuance of up to 4,641,538 shares. At June 30, 2009, there were options outstanding covering 85,000 and 3,973,575 shares of common stock under the 2002 Plan and 2005 Plan, respectively.

At June 30, 2009, there were also options outstanding covering 32,000 shares of common stock from grants outside the stock option plans. See Note 8 for summary stock option activity during the nine months ended June 30, 2009.

Share-Based Payments

The Company accounts for share-based payments under the provisions of SFAS No. 123(R) Share-based payments (SFAS 123(R)). Options or stock awards issued to non-employees who are not directors of the Company are recorded at their estimated fair value at the measurement date in accordance with SFAS No. 123(R) and EITF Issue No. 96-18, Accounting for Equity Instruments That Are Issued to Other Than Employees for Acquiring or in Conjunction with Selling Goods or Services, and are periodically revalued as the options vest and are recognized as expense over the related service period. The Company recorded $1,388,857 and $1,669,035 of share-based compensation expense for the nine months ended June 30, 2009 and 2008, respectively. The amounts of share-based compensation expense are classified in the consolidated statements of operations as follows:

	Three Months Ended June 30,		Nine Months Ended June 30,	
	2009	2008	2009	2008
Cost of revenue	$ 18,937	$ (34,774)	$ 57,565	$ 4,969
Selling, general and administrative	269,348	366,363	1,234,300	1,350,718
Research and development	18,004	193,042	96,992	313,348
Total	$ 306,289	$ 524,631	$ 1,388,857	$ 1,669,035

The weighted-average estimated fair value of employee stock options granted during the nine months ended June 30, 2009 and 2008 was $0.28 and $1.00, per share, respectively, using the Black-Scholes option pricing model with the following weighted-average assumptions (annualized percentages):

	Nine months ended June 30,	
	2009	2008
Volatility	71.0% - 83.0%	71.0%
Risk-free interest rate	1.30% - 1.86%	2.79% - 3.49%
Forfeiture rate	20.0%	20.0%
Dividend yield	0.0%	0.0%
Expected life in years	3.4 - 4.9	3.4 - 4.9

The dividend yield of zero is based on the fact that the Company has never paid cash dividends and has no present intention to pay cash dividends. Expected volatility is based on the historical volatility of the Company s common stock over the period commensurate with the expected life of the options. The risk-free interest rate is based on rates published by the Federal Reserve Board. The expected life is based on observed and expected time to post-vesting exercise. The expected forfeiture rate is based on past experience and employee retention data. Forfeitures are estimated at the time of the grant and revised in subsequent periods if actual forfeitures differ from those estimates or if the Company updates its estimated forfeiture rate. Such amounts will be recorded as a cumulative adjustment in the period in which the estimate is changed.

Since the Company has a net operating loss carryforward as of June 30, 2009, no excess tax benefit for the tax deductions related to share-based awards was recognized for the nine months ended June 30, 2009 and 2008. Additionally, no incremental tax benefits were recognized from stock options exercised in the quarters ended June 30, 2009 or 2008. Such recognition would have resulted in a reclassification to reduce net cash provided by operating activities with an offsetting increase in net cash provided by financing activities.

As of June 30, 2009, there was approximately $600,000 of total unrecognized compensation cost related to non-vested share-based employee compensation arrangements. The cost is expected to be recognized over a weighted-average period of 1.4 years.

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9. STOCKHOLDERS EQUITY

Summary

The following table summarizes changes in stockholders equity components during the nine months ended June 30, 2009:

	Common Stock		Additional Paid-in Capital	Accumulated Deficit	Total Stockholders' Equity
	Shares	Amount			
Balances, September 30, 2008	30,535,207	$ 305	$ 81,374,937	$ (73,861,411)	$ 7,513,831
Issuance of common stock upon exercise of stock options	3,125		1,500		1,500
Share-based compensation expense			1,388,857		1,388,857
Net income for the period				133,966	133,966
Balances, June 30, 2009	30,538,332	$ 305	$ 82,765,294	$ (73,727,445)	$ 9,038,154

Common Stock Activity

During the nine months ended June 30, 2009, the Company issued 3,125 shares of common stock in connection with the exercise of stock options.

Stock Option Activity

The following table summarizes information about stock option activity during the nine months ended June 30, 2009:

	Number of Shares	Weighted Average Exercise Price
Fiscal 2009:		
Outstanding October 1, 2008	3,226,200	$ 3.72
Granted	991,000	$ 0.54
Canceled/expired	(123,500)	$ 3.58
Exercised	(3,125)	$ 0.48
Outstanding June 30, 2009	4,090,575	$ 2.96
Exercisable at June 30, 2009	3,238,971	$ 3.34
Weighted average fair value of options granted during the year		$ 0.28

Options outstanding are exercisable at prices ranging from $0.46 to $9.48 and expire over the period from 2009 to 2014 with an average life of 3.11 years. The aggregate intrinsic value of options outstanding and exercisable at June 30, 2009 was $1,354,118 and $664,420, respectively.

Stock Purchase Warrants

There was no warrant activity during the nine months ended June 30, 2009. The number of shares purchasable under outstanding warrants at June 30, 2009 was 2,936,693 at a weighted average purchase price of $3.78.

At June 30, 2009, the following stock purchase warrants were outstanding arising from offerings and other transactions:

Number	Exercise Price		Expiration Date
838,489	$	5.44*#	July 18, 2009
75,000	$	8.60	December 31, 2009
75,000	$	9.28	December 31, 2009
1,948,204	$	2.67*	August 7, 2010
2,936,693			

* These warrants contain antidilution rights if the Company sells securities for less than the exercise price.
# These warrants expired, unexercised, on July 18, 2009.

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10. ACCRUED LIABILITIES

Accrued liabilities consisted of the following:

	June 30, 2009	September 30, 2008
Payroll and related	$ 277,223	$ 421,686
Deferred revenue	275,509	275,509
Warranty reserve	281,178	235,174
Customer deposits	31,319	8,975
Other	26,205	36,459
Total	$ 891,434	$ 977,803

Changes in the warranty reserve during the three and nine months ended June 30, 2009 and 2008 were as follows:

	Three Month Ended June 30,		Nine Months Ended June 30,	
	2009	2008	2009	2008
Beginning balance	$ 267,702	$ 135,044	$ 235,174	$ 182,247
Warranty provision	165,590	25,274	209,631	(431)
Warranty settlements	(152,114)	(8,974)	(163,627)	(30,472)
Ending balance	$ 281,178	$ 151,344	$ 281,178	$ 151,344

11. INCOME (LOSS) PER SHARE

Basic earnings (loss) per share is computed by dividing net income (loss) by the weighted average number of common shares outstanding for the period. Diluted earnings (loss) per share is computed by dividing net income (loss) by the weighted-average number of shares of common stock outstanding during the period increased to include the number of dilutive potential common shares outstanding during the period. The dilutive effect of outstanding stock options and warrants is reflected in diluted earnings per share by application of the treasury stock method, which assumes that the proceeds from the exercise of the outstanding options and warrants are used to repurchase common stock at market value. Under the treasury stock method, an increase in the fair market value of the Company s common stock can result in a greater dilutive effect from potentially dilutive securities. The Company s losses for certain periods presented cause the inclusion of potential common stock instruments outstanding to be antidilutive.

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The following table sets forth the computation of basic and diluted earnings (loss) per share:

	Three Months Ended June 30,		Nine Months Ended June 30,	
	2009	2008	2009	2008
Basic				
Net income (loss)	$ 136,184	$ (1,519,905)	$ 133,966	$ (5,377,273)
Weighted average common shares outstanding	30,537,302	30,535,207	30,535,905	30,535,207
Basic income (loss) per common share	$ 0.00	$ (0.05)	$ 0.00	$ (0.18)
Diluted				
Net income (loss)	$ 136,184	$ (1,519,905)	$ 133,966	$ (5,377,273)
Weighted average common shares outstanding	30,537,302	30,535,207	30,535,905	30,535,207
Assumed exercise of options	1,008,784		361,742	
Common and potential common shares	31,546,086	30,535,207	30,897,647	30,535,207
Diluted income (loss) per common share	$ 0.00	$ (0.05)	$ 0.00	$ (0.18)
Potentially dilutive stock options and warrants outstanding at period end excluded from diluted computation as they were antidilutive	6,072,393	6,207,393	6,082,893	6,207,393

12. FAIR VALUE MEASUREMENTS

The Company s financial instruments consist of cash and cash equivalents, accounts receivables, accounts payable and accrued liabilities. The carry values of these instruments approximate fair values due to their short-term maturities.

13. MAJOR CUSTOMERS

For the three months ended June 30, 2009, revenues from two customers accounted for 22% and 11% of revenues, respectively, and for the nine months ended June 30, 2009, revenues from one customer accounted for 29% of revenues, with no other single customer accounting for more than 10% of revenues. At June 30, 2009, accounts receivable from two customers accounted for 29% and 20% of total accounts receivable, respectively, with no other single customer accounting for more than 10% of the accounts receivable balance.

For the three months ended June 30, 2008, revenues from two customers each accounted for 12% of revenues, and for the nine months ended June 30, 2008, revenues from one customer accounted for 12% of revenues, with no other single customer accounting for more than 10% of revenues. At June 30, 2008, accounts receivable from four customers accounted for 18%, 13%, 12% and 12% of total accounts receivable, respectively, with no other single customer accounting for more than 10% of the accounts receivable balance.

14. COMMITMENTS AND CONTINGENCIES

Bank and Other Cash Equivalent Deposits in Excess of FDIC Insurance Limits

The Company currently maintains its cash and cash equivalent accounts with a major financial institution. Effective October 14, 2008, Federal Deposit Insurance Corporation deposit insurance was changed to provide full deposit insurance coverage for non-interest bearing deposit transaction accounts through December 31, 2009. Also in October 2008, the financial institution enrolled in the U.S. Treasury Department s Temporary Guarantee Program for money market funds. Under this program, the U.S. Treasury guarantees the $1.00 per share value of fund shares outstanding as of September 19, 2008, subject to certain terms and limitations. As a result, since all of the Company s cash equivalents at June 30, 2009 consist of money market funds with this financial institution, these funds are guaranteed at 100% up to the balance held as of

September 19, 2008. Based on these changes, as of June 30, 2009, the Company did not have any cash and cash equivalents that are either in excess of current FDIC limits or that are not guaranteed by the U.S. Treasury Department.

Litigation

The Company may at times be involved in litigation in the ordinary course of business. The Company will, from time to time, when appropriate in management s estimation, record adequate reserves in the Company s financial statements for pending litigation. Currently, there are no pending material legal proceedings to which the Company is a party or to which any of its property is subject.

15. SUBSEQUENT EVENTS

Subsequent events have been evaluated through August 3, 2009, which was the date the Company s financial statements were issued.

Item 2. Management s Discussion and Analysis of Financial Condition and Results of Operations

The following discussion should be read in conjunction with the accompanying unaudited interim financial statements and the related notes included under Item 1 of this Quarterly Report on Form 10-Q, together with Management s Discussion and Analysis of Financial Condition and Results of Operations included in our Annual Report on Form 10-K for the year ended September 30, 2008.

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The following discussion provides an overview of our results of operations for the three and nine months ended June 30, 2009 and 2008. Significant period-to-period variances in the consolidated statements of operations are discussed under the caption Results of Operations. Our financial condition and cash flows are discussed under the caption Liquidity and Capital Resources.

Forward Looking Statements

This report contains certain statements of a forward-looking nature relating to future events or future performance. Words such as expects, anticipates, intends, plans, believes, seeks, estimates and similar expressions or variations of such words are intended to identify forward-looking statements, but are not the only means of identifying forward-looking statements. Readers are cautioned that such statements are only predictions and actual events or results may differ materially. In evaluating such statements, readers should specifically consider various factors identified in this report and any matters set forth under Part I, Item 1A (Risk Factors) of our Annual Report on Form 10-K, which could cause actual results to differ materially from those indicated by such forward-looking statements.

Overview

We are a pioneer of highly intelligible, high clarity, directed sound technologies and products. We aggressively seek to create markets for our products, and we are increasing our focus on and investment in worldwide sales and marketing activities while we continue to innovate.

During 2008, we completed the development of a new generation of LRAD® products called the LRAD-X®. Our new LRAD-X products use directionality and focused acoustic output to clearly transmit critical information, instructions and warnings 500 meters and beyond. The LRAD-X product line can be manually operated or integrated into a remotely controlled security network s command and control center. Through the use of powerful voice commands and deterrent tones, large safety zones can be created while determining the intent and influencing the behavior of an intruder. Our LRAD-X products are the industry s loudest, most intelligible line of directed acoustic hailing and warning devices (AHDs), and feature rugged, weatherproof construction and enhanced voice, tone and frequency response. We continue to improve and expand our LRAD product line that includes the following major products:

LRAD 1000X selected by the U.S. Navy as its AHD for Block 0 of the Shipboard Protection System can be manually operated to provide long distance hailing and warning with highly intelligible communication.

LRAD 500X selected by the U.S. Navy and U.S. Army as their AHD for small vessels and vehicles is lightweight and can be easily transported to provide security personnel long-range communications and a highly effective hailing and warning capability where needed.

LRAD 300X is compact, lightweight and ideally suited for use on military and armored vehicles, common remote-operated weapon systems, and small vessels to influence the behavior of targeted threats.

LRAD 100X is portable and designed for use in a variety of mass notification and commercial security applications. It is ideally suited for short-range perimeter security and it adds highly intelligible sound/communication resources into traditional camera-based security networks in an integrated package.

LRAD-RX™ is our prescription for remotely controlled security. It enables system operators to detect and communicate with an intruder over long distances. LRAD-RX features an LRAD 1000X emitter head and an integrated IP-addressable full pan and tilt drive system for precise aiming and tracking. LRAD-RX reduces manpower and false alarms while providing an intelligent, cost-effective security solution. The LRAD-RX can be operated remotely from anywhere across a TCP/IP network enabling system operators to respond to security threats from a safe remote environment. The LRAD-RX is aimed and controlled by our proprietary pan and tilt drive system. We designed and engineered this pan and tilt drive system to meet the demanding specifications of customers that deploy these devices on large vessels, offshore oil and other platforms. The LRAD-RX can be integrated with a number of other sensors (radar, camera, etc.) creating a fully integrated unmanned perimeter security solution.

These products have been well received by our military customers and interest has been strong for other applications such as oil rig protection, maritime and homeland security, port security, bird and wildlife deterrents and by law enforcement. We believe these products provide an increased opportunity for us in both the government and commercial markets that we are developing, and will allow us to continue as the leader in this market. We believe that our products are offered at price and performance points to attract serious market interest. Accelerating our product sales and revenue growth will require organizational discipline, improved customer focus, and a new, sustained marketing push of our Company and products. We are focused on these areas of our business while also containing costs.

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As has been widely reported, financial markets in the United States, Europe and Asia have been experiencing extreme disruption in recent months, including, among other things, extreme volatility in security prices, severely diminished liquidity and credit availability, rating downgrades of certain investments and declining valuations of others. Governments have taken unprecedented actions intended to address extreme market conditions that include severely restricted credit and declines in real estate values. While currently these conditions have not impaired our ability to operate our business, there can be no assurance that there will not be a further deterioration in financial markets and confidence in major economies, which can then lead to challenges in the operation of our business. These economic developments affect businesses such as ours in a number of ways. The current tightening of credit in financial markets adversely affects the ability of commercial customers to finance purchases and operations and could result in a decrease in orders and spending for our products as well as create supplier disruptions. Economic developments could also reduce future government spending on our products. We are unable to predict the likely duration and severity of the current disruption in financial markets and adverse economic conditions and the effects they will have on our business and financial condition.

Overall Performance for the Third Quarter of Fiscal 2009

For our third fiscal quarter ended June 30, 2009:

Our revenues for the three months ended June 30, 2009 increased 60% to $4,404,040 from $2,748,234 for the three months ended June 30, 2008. The revenue growth was from our LRAD product line, partially offset by reductions in HSS and SoundSaber product sales. Revenue growth was driven by strong sales to U.S. and foreign Navies, anti-piracy applications by commercial shipping companies and commercial bird and wildlife applications.

We recorded a gross profit of $1,987,803 for the three months ended June 30, 2009 (45% of revenues), which was $943,481 higher than $1,044,322 for the quarter ended June 30, 2008 (38% of revenues), driven by higher revenues, increased product margins and better fixed overhead absorption.

Operating expenses of $1,855,283 for the three months ended June 30, 2009 decreased by $733,525, or 28%, from the three months ended June 30, 2008. The prior year quarter included $162,800 in costs and expenses related to the development of our LRAD-X product line that were not incurred during the 2009 quarter. In addition, we had $272,055 of reduced non-cash share-based compensation expense, $124,963 from reduced staffing levels, $91,676 from reduced impairment of patents, and other savings, offset by an increase in third party sales commissions of $161,530.

During the quarter ended June 30, 2009, we generated net income for the second consecutive quarter, the first two quarters of reported net income in the Company s history. Our net income during this period of $136,184, or $0.00 per share was an increase of $1,656,089 compared to the net loss of $1,519,905, or $0.05 per share, for the quarter ended June 30, 2008, due to the increased revenues and gross profit and reduction in operating expenses described above. Future operating results will depend on future product sales levels, international market conditions and many other factors, some of which are beyond our control and accordingly there is no assurance of continued quarterly profitability.

For the three month period ended June 30, 2009, we increased our cash and cash equivalents by $1,866,083, primarily due to our net income for the period, including adjustments for non-cash expenses, and a reduction of our accounts receivable balance. Net income (losses) and changes in working capital components cause significant variances in operating cash on a quarter over quarter basis.

We believe we have a solid technology and product foundation for business growth over the next several years. We have additional new technologies and products in various stages of development. We believe we have strong market opportunities, particularly given the continuing global threats to both governments and commerce, where our LRAD products have proven to be effective at determining intent and hailing and notification for force protection.

Critical Accounting Policies

We have identified a number of accounting policies as critical to our business operations and the understanding of our results of operations. These are described in our consolidated financial statements located in Item 1 of Part I, Financial Statements, and Management s Discussion and Analysis of Financial Condition and Results of Operations in our Annual Report of Form 10-K for the year ended September 30, 2008. The impact and any associated risks related to these policies on our business operations is discussed throughout Management s Discussion and Analysis of Financial Condition and Results of Operations when such policies affect our reported and expected financial results.

The methods, estimates and judgments we use in applying our accounting policies, in conformity with generally accepted accounting principles in the United States, have a significant impact on the results we report in our financial statements. We base our estimates on historical experience and on various other assumptions that we believe to be reasonable under the circumstances. The estimates affect the carrying values of assets and liabilities. Actual results may differ from these estimates under different assumptions or conditions.

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Results of Operations for the Three Months Ended June 30, 2009 and 2008

Revenues

Revenues for the three months ended June 30, 2009 were $4,404,040, representing a 60% increase from $2,748,234 in revenues for the three months ended June 30, 2008. Revenues for the three months ended June 30, 2009 included $4,289,200 of product sales and $114,840 of contract, license and other revenues. Revenues for the three months ended June 30, 2008 included $2,505,601 of product sales and $242,633 of contract, license and other revenues. The revenue growth was in our LRAD product line, partially offset by reductions in our HSS and SoundSaber product sales. In addition to strong sales to the U.S. Navy and Army, we have continued to diversify our revenues to foreign military groups, shipping companies, fisheries, police, bird and wildlife protection and other commercial applications. Our revenues are highly dependent on the timing of large orders from a small number of customers. We expect continued uneven quarterly revenues in future periods due to the lack of established markets for our proprietary products.

For the three months ended June 30, 2008, we recognized $54,167 in contract revenue representing ratable earned revenue under a three year license agreement. We did not record any similar contract revenue in the three months ended June 30, 2009 as the contract expired in September 2008. At June 30, 2009, there was no revenue unearned under this agreement. At June 30, 2009, we had aggregate deferred license revenue of $275,509 representing amounts collected from another license agreement in advance of recognized earnings. This revenue component is subject to significant variability based on the timing, amount and recognition of new arrangements, if any.

Gross Profit

Gross profit for the three months ended June 30, 2009 was $1,987,803, or 45% of revenues, compared to $1,044,322, or 38% of revenues, for the three months ended June 30, 2008. The increase in gross profit was driven by higher revenues, increased product margins due to reduced product cost and favorable mix, and broader absorption of our fixed overhead expenses as a result of the higher revenues. We incurred increased warranty costs during the most recent quarter compared to the prior year s third quarter primarily to replace some units that were damaged due to unique application of our product by one of our customers. We have worked with our customer and this issue has been resolved.

Our products have varying gross margins, so product sales mix will materially affect gross profits. In addition, we continue to make product updates and changes, including raw material and component changes that may impact product costs. With such product updates and changes we have limited warranty cost experience and estimated future warranty costs can impact our gross margins. We do not believe that historical gross profit margins should be relied upon as an indicator of future gross profit margins.

Selling, General and Administrative Expenses

Selling, general and administrative expenses for the three months ended June 30, 2009 decreased $334,857 to $1,395,777, or 32% of revenues, compared to $1,730,634, or 63% of revenues, for the three months ended June 30, 2008. The decrease in selling general and administrative expenses was primarily attributed to $165,880 in lower salaries and consulting expense, $97,017 due to lower non-cash share-based compensation expense, $57,353 of reduced marketing expenses, and $176,137 of travel and other cost savings, partially offset by $161,530 increase in outside sales commissions.

We incurred non-cash share-based compensation expenses related to SFAS No. 123(R) allocated to selling, general and administrative expenses in the three months ended June 30, 2009 and 2008 of $269,348 and $366,363, respectively.

We may expend additional resources on marketing and selling our products in future periods as we identify ways to optimize our potential opportunity. This may result in increased selling, general and administrative expenses in the future. Commission expense will vary based on the sales channel and revenue levels.

Research and Development Expenses

Research and development expenses decreased $398,668 to $459,506, or 10% of revenues, for the three months ended June 30, 2009, compared to $858,174, or 31% of revenues, for the three months ended June 30, 2008. This decrease in research and development expense was primarily due to $162,800 of consulting, prototypes and testing costs incurred in the prior year for the development of our new LRAD-X product line that were not incurred in the 2009 quarter, $175,038 for reduced non-cash share-based compensation expense, and $91,676 from the reduction in expenses incurred for impairment of patents.

Included in research and development expenses for the three months ended June 30, 2009 and 2008 was $18,004 and $193,042 of non-cash share-based compensation costs, respectively. The prior year expense included a $145,375 adjustment to true-up the forfeiture rate.

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Each quarter, we review the ongoing value of our capitalized patent costs and in the third quarter identified some of these assets as being associated with patents that are no longer consistent with our business strategy. As a result of this review, we reduced the value of our previously capitalized patents by $13,151 during the quarter ended June 30, 2009, compared to an impairment of $104,827 in the three months ended June 30, 2008.

Research and development costs vary period to period due to the timing of projects, the availability of funds for research and development and the timing and extent of use of outside consulting, design and development firms. We completed the development of the LRAD-X product line in the third fiscal quarter of 2008 with enhanced performance and louder, more intelligible communications. Based on current plans and reduced engineering staffing, we expect research and development costs to continue in the current fiscal year at a lower level than last year.

Income (Loss) from Operations

Income from operations was $132,520 for the three months ended June 30, 2009, compared to loss from operations of $1,544,486 for the three months ended June 30, 2008. The income from operations is primarily attributable to the increase in revenues, improved gross profit margins and reduced operating expenses.

Other Income

During the three months ended June 30, 2009, we earned $4,447 of interest income on our cash and cash equivalents balances compared to $24,581 during the three months ended June 30, 2008 due to lower cash balances and lower interest rates.

Net Income (Loss)

The net income for the three months ended June 30, 2009 was $136,184, or $0.00 per share, an increase of $1,656,089 from a net loss of $1,519,905, or $0.05 per share, for the three months ended June 30, 2008. The net income was primarily the result of increased revenues, improved gross profit margins and reduced operating expenses. We had no income tax expense for either of the periods presented.

Results of Operations for the Nine Months Ended June 30, 2009 and 2008

Revenues

Revenues for the nine months ended June 30, 2009 were $12,769,765, representing a 74% increase from $7,332,250 in revenues for the nine months ended June 30, 2008. Revenues for the nine months ended June 30, 2009 included $12,521,443 of product sales and $248,322 of contract, license and other revenues. Revenues for the nine months ended June 30, 2008 included $6,888,597 of product sales and $443,653 of contract, license and other revenues. Sales increased in our LRAD product line and decreased in our HSS and SoundSaber product lines. We expect continued uneven quarterly revenues in future periods as we continue to develop the markets for our proprietary products.

For the nine months ended June 30, 2008, we recognized $162,500 in contract revenue representing ratable earned revenue under a six year license agreement. We did not record any similar contract revenue in the nine months ended June 30, 2009 as the contract expired in September 2008. At June 30, 2009, there was no revenue unearned under this agreement. At June 30, 2009, we had aggregate deferred license revenue of $275,509 representing amounts collected from another license agreement in advance of recognized earnings. This revenue component is subject to significant variability based on the timing, amount and recognition of new arrangements, if any.

Gross Profit

Gross profit for the nine months ended June 30, 2009 was $6,246,931, or 49% of revenues, compared to $2,929,304, or 40% of revenues, for the nine months ended June 30, 2008. The increase in gross profit was due to higher revenues, increased product margins due to reduced product cost and favorable mix and greater absorption of our fixed overhead expenses as a result of the higher revenues.

Our products have varying gross margins, so product sales mix will materially affect gross profits. In addition, we continue to make product updates and changes, including raw material and component changes that may impact product costs. With such product updates and changes we have limited warranty cost experience and estimated future warranty costs can impact our gross margins. We do not believe that historical gross profit margins should be relied upon as an indicator of future gross profit margins.

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Selling, General and Administrative Expenses

Selling, general and administrative expenses for the nine months ended June 30, 2009 decreased $733,214 to $4,780,654, or 37% of revenues, compared to $5,513,868, or 75% of revenues, for the nine months ended June 30, 2008. The decrease in selling general and administrative expenses was primarily attributed to $383,064 in lower professional fees resulting from a change in audit firms, $394,002 from reduced staffing levels, $116,418 from reduced non-cash share-based compensation expense, $129,664 from lower marketing expenses and $366,650 from a reduction in travel and other expense, partially offset by an increase of $656,585 in outside sales commission expense.

We incurred non-cash share-based compensation expenses related to SFAS No. 123(R) allocated to selling, general and administrative expenses in the nine months ended June 30, 2009 and 2008 of $1,234,300 and $1,350,718, respectively.

We may expend additional resources on marketing and selling our products in future periods as we identify ways to optimize our potential opportunity. This may result in increased selling, general and administrative expenses in the future. Commission expense will also vary based on the sales channel and revenue levels.

Research and Development Expenses

Research and development expenses decreased $1,474,587 to $1,360,614, or 11% of revenues, for the nine months ended June 30, 2009, compared to $2,835,201, or 39% of revenues, for the nine months ended June 30, 2008. This decrease in research and development expense was primarily due to a reduction of $747,235 in consulting, prototypes and testing costs in the prior year for the development of our new LRAD-X product line. In addition, we had savings of $252,789 from reduced staffing levels and $221,453 from the reduction in expenses incurred for impairment of patents and $216,356 from reduced non-cash share-based compensation expense.

Included in research and development expenses for the nine months ended June 30, 2009 and 2008 was $96,992 and $313,348 of SFAS No. 123(R) non-cash share-based compensation costs, respectively. The prior year expense included a $145,375 adjustment to true-up the forfeiture rate.

Each quarter, we review the ongoing value of our capitalized patent costs and in the first three quarters identified some of these assets as being associated with patents that are no longer consistent with our business strategy. As a result of this review, we reduced the value of our previously capitalized patents by $88,895 during the nine months ended June 30, 2009, compared to an impairment of $310,348 in the nine months ended June 30, 2008.

Research and development costs vary period to period due to the timing of projects, the availability of funds for research and development and the timing and extent of use of outside consulting, design and development firms. We completed the development of the LRAD-X product line in the third fiscal quarter of 2008 with enhanced performance and louder, more intelligible communications. Based on current plans and reduced engineering staffing, we expect research and development costs to continue in the current fiscal year at a lower level than last year.

Income (Loss) from Operations

Income from operations was $105,663 for the nine months ended June 30, 2009, compared to loss from operations of $5,419,765 for the nine months ended June 30, 2008. The decreased loss from operations is primarily attributable to the increase in revenues, improved gross profit margins and lower operating expenses.

Other Income (Expense)

During the nine months ended June 30, 2009, we earned $29,086 of interest income on our cash and cash equivalents balances compared to $151,313 during the nine months ended June 30, 2008 due to lower cash balances and lower interest rates. During the nine months ended June 30, 2008, we recorded a $108,821 financing expense for estimated liquidated damages based on certain registration rights agreements compared to $783 of interest expense during the nine month ended June 30, 2009.

Net Income (Loss)

The net income for the nine months ended June 30, 2009 was $133,966, compared to a net loss of $5,377,273 for the nine months ended June 30, 2008. The significantly reduced loss was primarily the result of increased revenues, improved gross margins and lower operating expenses. We had no income tax expense for either of the periods presented.

Liquidity and Capital Resources

We generated positive cash flow from operating activities and a net increase in cash and cash equivalents during the nine months ended June 30, 2009 of $2,101,922 and $1,931,117, respectively. During this period, we financed our working capital requirements through cash and cash equivalents on hand at the beginning of the period, and from cash generated from operating activities. Cash and cash equivalents at June 30, 2009 was $4,625,986 compared to $2,694,869 at September 30, 2008. The net increase in cash and cash equivalents during this period resulted from net cash from operating activities and $1,500 from financing activities through the exercise of options, offset by $172,305 in net cash used in investing activities that related to purchases of equipment and patent costs paid.

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Other than cash and cash equivalents, inventory and our balance of accounts receivable, we have no other unused sources of liquidity as of June 30, 2009.

Principal factors that could affect the availability of our internally generated funds include:

- ability to meet sales projections;
- government spending levels;
- introduction of competing technologies;
- product mix and effect on margins;
- ability to collect accounts receivable balances;
- ability to reduce current inventory levels; and
- product acceptance in new markets.

Principal factors that could affect our ability to obtain cash from external sources include:

- volatility in the capital markets; and
- market price and trading volume of our common stock.

Based on our current cash position, and assuming currently planned expenditures and level of operations, we believe we have sufficient capital to fund operations for at least the next twelve months. However, we operate in a rapidly evolving and unpredictable business environment that may change the timing or amount of expected future cash receipts and expenditures. Accordingly, there can be no assurance that we may not be required to raise additional funds through the sale of equity or debt securities or from credit facilities. Additional capital, if needed, may not be available on satisfactory terms, or at all.

Cash Flows

Operating Activities

Our net cash provided by operating activities was $2,101,922 for the nine months ended June 30, 2009 compared to cash used of $3,002,373 from operating activities for the nine months ended June 30, 2008. Net cash provided by operating activities for the nine months ended June 30, 2009 included net income of $133,966, increased by expenses not requiring the use of cash of $2,056,090, $199,648 from decreased inventories and $30,217 from reduced accounts receivable. Operating cash usage during the nine months ended June 30, 2009 included $163,627 for increased warranty settlements, $132,373 decrease in accrued liabilities, $15,895 increase in prepaid expenses and $6,104 decrease in accounts payable. Cash generated from operating activities for the nine months ended June 30, 2008 included $110,995 for decreased inventories, $114,709 increase in accounts payable and $675,466 increase in accrued liabilities. Cash used in operating activities for the nine months ended June 30, 2008 included the $5,377,273 net loss, reduced by expenses not requiring the use of cash of $2,241,615, a $678,387 increase in accounts receivable, $59,026 increase in prepaid expenses and $30,472 increase in warranty settlements.

At June 30, 2009, we had working capital of $7,778,932, compared to working capital of $6,105,286 at September 30, 2008.

At June 30, 2009, we had net accounts receivable of $2,173,918, compared to $2,210,526 in accounts receivable at September 30, 2008. The level of trade accounts receivable at June 30, 2009 represented approximately 45 days of revenue compared to approximately 72 days of revenue at September 30, 2008. Terms with individual customers vary greatly. We typically require thirty-day terms from our customers. Our receivables can vary significantly due to overall sales volumes and due to quarterly variations in sales and timing of shipments to and receipts from large customers and the timing of contract payments.

Investing Activities

We use cash in investing activities primarily for the purchase of tooling, computer equipment and software and investment in new patents. Cash used in investing activities for equipment was $143,635 for the nine months ended June 30, 2009 and $99,355 for the nine months ended June 30, 2008. Cash used for investment in new patents was $28,670 for the nine months ended June 30, 2009 and $160,173 for the nine months ended June 30, 2008. We anticipate some additional expenditure for equipment and patents during the balance of fiscal year 2009.

Financing Activities

Cash provided by financing activities for the three and nine months ended June 30, 2009 was $1,500, which consisted of net cash proceeds from the exercise of stock options. There was no cash provided by or used in financing activities for the nine months ended June 30, 2008.

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Recent Accounting Pronouncements

A discussion of the new pronouncements can be found in Note 3 to our interim consolidated financial statements.

Item 3. Qualitative and Quantitative Disclosures about Market Risk.
Not applicable.

Item 4. Controls and Procedures.
We are required to maintain disclosure controls and procedures designed to ensure that material information related to us, including our consolidated subsidiaries, is recorded, processed, summarized and reported within the time periods specified in the SEC rules and forms.

Conclusion Regarding the Effectiveness of Disclosure Controls and Procedures

Under the supervision and with the participation of our management, including our principal executive officer and our principal financial officer, we conducted an evaluation of our disclosure controls and procedures, as such term is defined under Rules 13a-15(e) and 15d-15(e) promulgated under the Securities Exchange Act of 1934. Based on this evaluation, our principal executive officer and our principal financial officer concluded that our disclosure controls and procedures were effective at the reasonable assurance level as of June 30, 2009.

Changes in Internal Control over Financial Reporting

There have been no changes in our internal control over financial reporting during our fiscal quarter ended June 30, 2009 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting. Our process for evaluating controls and procedures is continuous and encompasses constant improvement of the design and effectiveness of established controls and procedures and the remediation of any deficiencies which may be identified during this process.

PART II. OTHER INFORMATION

Item 1. Legal Proceedings.
We may at times be involved in litigation in the ordinary course of business. We will also, from time to time, when appropriate in management s estimation, record adequate reserves in our financial statements for pending litigation. Currently, there are no pending material legal proceedings to which we are party or to which any of our property is subject.

Item 1A. Risk Factors
Not applicable.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds.
None.

Item 3. Defaults Upon Senior Securities.
Not applicable.

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

None.

Item 5. Other Information.

None.

Item 6. Exhibits

31.1 Certification of Thomas R. Brown, Principal Executive Officer, pursuant to Rule 13a-14(a) or 15d-14(a) of the Securities and Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.

31.2 Certification of Katherine H. McDermott, Principal Financial Officer, pursuant to Rule 13a-14(a) or 15d-14(a) of the Securities and Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.

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32.1 Certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, executed by Thomas R. Brown, Principal Executive Officer and Katherine H. McDermott, Principal Financial Officer.

99.1 Press release dated August 3, 2009 regarding fiscal Q3 2009 financial results. (This exhibit has been furnished and shall not be deemed filed for purposes of Section 18 of the Securities Exchange Act of 1934, nor shall it be deemed incorporated by reference in any filing under the Securities Act of 1933, except as shall be expressly set forth by specific reference in such filing.)

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.

AMERICAN TECHNOLOGY CORPORATION

Date: August 3, 2009

By: /s/ Katherine H. McDermott

Katherine H. McDermott, Chief Financial Officer

(Principal Financial Officer)