

Edgar Filing: INPUT OUTPUT INC - Form 8-K

INPUT OUTPUT INC  
Form 8-K  
December 17, 2003

=====

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): DECEMBER 17, 2003

INPUT/OUTPUT, INC.  
(Exact Name of Registrant As Specified In Its Charter)

DELAWARE	1-12691	22-2286646
(State or Other Jurisdiction of Incorporation)	(Commission File No.)	(I.R.S. Employer Identification No.)

12300 PARC CREST DRIVE  
STAFFORD, TEXAS 77477  
(Address of Principal Executive Offices) (Zip Code)

(281) 933-3339  
(Registrant's Telephone Number, Including Area Code)

=====

ITEM 5. OTHER EVENTS AND REGULATION FD DISCLOSURE.

On December 17, 2003, Input/Output, Inc., a Delaware corporation ("IO"), issued a press release pursuant to Rule 135c under the Securities Act of 1933, as amended (the "Securities Act"), announcing that the initial purchaser of IO's 5.50% Convertible Senior Notes due 2008 had exercised its over-allotment option and purchased an additional \$10 million aggregate principal amount of the notes. The primary offering of \$50 million aggregate principal amount of the notes closed on December 10, 2003. As a result, the total principal amount of the notes issued by IO is \$60 million.

The notes bear interest at the rate of 5.50% per annum and are convertible into shares of IO common stock at a conversion rate of 231.4815 shares of common stock per \$1,000 principal amount of notes. This conversion

## Edgar Filing: INPUT OUTPUT INC - Form 8-K

rate is equivalent to an initial conversion price of \$4.32 per share of common stock, subject to adjustment in certain circumstances.

The foregoing is qualified by reference to the press release which is attached as Exhibit 99.1 to this Current Report on Form 8-K, which is incorporated herein by reference.

The information contained in this Current Report on Form 8-K, including the exhibit hereto, is neither an offer to sell nor a solicitation of an offer to purchase any of the notes or any shares of common stock of IO, and shall not constitute an offer, solicitation or sale in any jurisdiction in which such offer, solicitation or sale is unlawful. The notes and shares of common stock of IO issuable upon conversion of the notes have not been registered under the Securities Act or the securities or blue sky laws of any jurisdiction and, unless registered, may not be offered or sold except pursuant to an applicable exemption from the registration requirements of the Securities Act and applicable securities laws of any other jurisdiction.

### ITEM 7. FINANCIAL STATEMENTS AND EXHIBITS.

(a) Financial Statements of business acquired

Not applicable

(b) Pro forma financial information

Not applicable

(c) Exhibits

99.1 Press release of Input/Output Inc. dated  
December 17, 2003.

### ITEM 9. REGULATION FD DISCLOSURE.

#### A. LIMITATION ON INCORPORATION BY REFERENCE

In accordance with General Instruction B.2 of Form 8-K, the information set forth in this Item 9 shall not be deemed to be "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or otherwise subject to the liabilities of that section, nor shall such information be deemed incorporated by reference in any filing under the Securities Act or the Exchange Act, except as shall be expressly set forth by specific reference in such a filing.

#### B. SUPPLEMENTAL INFORMATION

##### SCF NOTE AND WARRANT

Approximately \$16 million of the net proceeds from the primary offering of notes referred to above was applied to repay in full the outstanding indebtedness under an unsecured promissory note payable by IO to SCF-IV, L.P. ("SCF-IV"), which was scheduled to mature in May 2004. In addition, concurrently with the closing of the primary notes offering on December 10, 2003, IO issued, in a privately-negotiated transaction, 125,000 shares of its common stock to SCF-IV in exchange for SCF-IV's surrender to IO of its warrant to purchase 2,673,517 shares of IO's common stock at an exercise price of \$8.00 per share. This exchange was effected in a transaction exempt from the registration requirements under the Securities Act.

# Edgar Filing: INPUT OUTPUT INC - Form 8-K

## SIGNATURE

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

INPUT/OUTPUT, INC.  
(Registrant)

/s/ [Brad Eastman]

-----  
[Brad Eastman]  
Vice President, Chief Administrative  
Officer and Secretary

Date: December 17, 2003

## EXHIBIT INDEX

EXHIBIT NO. -----	DESCRIPTION -----
99.1	Press release of Input/Output, Inc. dated December 17, 2003.

ntrols and procedures. Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues and instances of fraud, if any, within the Company have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty, and that breakdowns can occur because of simple error or mistake. Additionally, controls can be circumvented by the individual acts of some persons, by collusions of two or more people, or by management override of the control. Because of the inherent limitations in a cost-effective, maturing control system, misstatements due to error or fraud may occur and not be detected.

There have not been any changes in the Company's internal control over financial reporting (as defined in Rule 13a-15(f) and 15d-15(f) under the Exchange Act) during the quarter of the fiscal year to which this report relates that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

**Table of Contents**

**PART II OTHER INFORMATION**

**Item 1. Legal Proceedings**

On October 20, 2011, Concord Associates, L.P., Concord Resort, LLC and Concord Kiamesha LLC filed a complaint with the Supreme Court of the State of New York, County of Westchester against the Company and certain of its subsidiaries alleging breach of contract and breach of the duty of good faith and fair dealing with respect to a casino development agreement relating to the casino resort project in Sullivan County, New York. Plaintiffs are seeking specific performance with respect to such agreement and money damages of \$800 million. The Company intends to vigorously defend the claims asserted against the Company and certain of its subsidiaries by the Concord entities for which it believes it has meritorious defenses.

**Item 1A. Risk Factors**

There were no material changes during the quarter from the risk factors previously discussed in Item 1A, Risk Factors in our Annual Report on Form 10-K for the year ended December 31, 2010 filed with the SEC on March 1, 2011.

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

During the quarter ended September 30, 2011, we did not sell any unregistered securities.

**Item 3. Defaults Upon Senior Securities**

There were no reportable events during the quarter ended September 30, 2011.

**Item 4. (Removed and Reserved)**

**Item 5. Other Information**

There were no reportable events during the quarter ended September 30, 2011.

---

**Table of Contents**

**Item 6.**      **Exhibits**

12.1*	Computation of Ratio of Earnings to Fixed Charges is attached hereto as Exhibit 12.1
12.2*	Computation of Ratio of Earnings to Combined Fixed Charges and Preferred Distributions is attached hereto as Exhibit 12.2
31.1*	Certification of David M. Brain, Chief Executive Officer, pursuant to Rule 13a-14(a) or 15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2*	Certification of Mark A. Peterson, Chief Financial Officer, pursuant to Rule 13a-14(a) or 15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1*	Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
32.2*	Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
101.INS*	XBRL Instance Document
101.SCH*	XBRL Taxonomy Extension Schema
101.CAL*	XBRL Extension Calculation Linkbase
101.DEF*	XBRL Taxonomy Extension Definition Linkbase
101.LAB*	XBRL Taxonomy Extension Label Linkbase
101.PRE*	XBRL Taxonomy Extension Presentation Linkbase

\* Filed herewith.

PLEASE NOTE: Pursuant to the rules and regulations of the Securities and Exchange Commission, we have filed or incorporated by reference the agreements referenced above as exhibits to this Quarterly Report on Form 10-Q. The agreements have been filed to provide investors with information regarding their respective terms. The agreements are not intended to provide any other factual information about the Company or its business or operations. In particular, the assertions embodied in any representations, warranties and covenants contained in the agreements may be subject to qualifications with respect to knowledge and materiality different from those applicable to investors and may be qualified by information in confidential disclosure schedules not included with the exhibits. These disclosure schedules may contain information that modifies, qualifies and creates exceptions to the representations, warranties and covenants set forth in the agreements. Moreover, certain representations, warranties and covenants in the agreements may have been used for the purpose of allocating risk between the parties, rather than establishing matters as facts. In addition, information concerning the subject matter of the representations, warranties and covenants may have changed after the date of the respective agreement, which subsequent information may or may not be fully reflected in the Company's public disclosures. Accordingly, investors should not rely on the representations, warranties and covenants in the agreements as characterizations of the actual state of facts about the Company or its business or operations on the date hereof.

**Table of Contents**

**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.

**ENTERTAINMENT PROPERTIES TRUST**

Dated: November 3, 2011

By /s/ David M. Brain  
David M. Brain, President Chief Executive  
Officer (Principal Executive Officer)

Dated: November 3, 2011

By /s/ Mark A. Peterson  
Mark A. Peterson, Vice President Chief  
Financial Officer (Principal Financial Officer and Chief Accounting  
Officer)

**Table of Contents**

**EXHIBIT INDEX**

<b>Exhibit No.</b>	<b>Document</b>
12.1*	Computation of Ratio of Earnings to Fixed Charges is attached hereto as Exhibit 12.1
12.2*	Computation of Ratio of Earnings to Combined Fixed Charges and Preferred Distributions is attached hereto as Exhibit 12.2
31.1*	Certification of David M. Brain, Chief Executive Officer, pursuant to Rule 13a-14(a) or 15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2*	Certification of Mark A. Peterson, Chief Financial Officer, pursuant to Rule 13a-14(a) or 15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1*	Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
32.2*	Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
101.INS*	XBRL Instance Document
101.SCH*	XBRL Taxonomy Extension Schema
101.CAL*	XBRL Extension Calculation Linkbase
101.DEF*	XBRL Taxonomy Extension Definition Linkbase
101.LAB*	XBRL Taxonomy Extension Label Linkbase
101.PRE*	XBRL Taxonomy Extension Presentation Linkbase

\* Filed herewith.

PLEASE NOTE: Pursuant to the rules and regulations of the Securities and Exchange Commission, we have filed or incorporated by reference the agreements referenced above as exhibits to this Quarterly Report on Form 10-Q. The agreements have been filed to provide investors with information regarding their respective terms. The agreements are not intended to provide any other factual information about the Company or its business or operations. In particular, the assertions embodied in any representations, warranties and covenants contained in the agreements may be subject to qualifications with respect to knowledge and materiality different from those applicable to investors and may be qualified by information in confidential disclosure schedules not included with the exhibits. These disclosure schedules may contain information that modifies, qualifies and creates exceptions to the representations, warranties and covenants set forth in the agreements. Moreover, certain representations, warranties and covenants in the agreements may have been used for the purpose of allocating risk between the parties, rather than establishing matters as facts. In addition, information concerning the subject matter of the representations, warranties and covenants may have changed after the date of the respective agreement, which subsequent information may or may not be fully reflected in the Company's public disclosures. Accordingly, investors should not rely on the representations, warranties and covenants in the agreements as characterizations of the actual state of facts about the Company or its business or operations on the date hereof.