

ICEWEB INC
Form 10-K/A
January 30, 2014

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-K/A

(Amendment No. 2)

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

For the fiscal year ended September 30, 2013

OR

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 **000-27865**

IceWEB, Inc.

(Exact name of registrant as specified in its charter)

Delaware
State or other jurisdiction of

13-2640971
(I.R.S. Employer

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incorporation or organization

Identification No.)

324 E 11th, Suite 2425, Kansas City, MO
(Address of principal executive offices)

64106
(Zip Code)

Registrant's telephone number, including area code: (571) 287-2388

Securities registered under Section 12(b) of the Exchange Act:

Title of each class
None

Name of each exchange on which registered
None

Securities registered under Section 12(g) of the Exchange Act:

Common Stock, \$0.001 Par Value

(Title of class)

Indicate by checkmark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.

Yes No

Indicate by checkmark if the registrant is not required to file reports pursuant to Section 13 or 15 (d) of the Act

Yes No

Indicate by checkmark 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 No

Indicate by checkmark whether the registrant has submitted electronically and posted on its corporate Website, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§229.405 of this chapter) during the preceding 12 months (or such shorter period that the registrant was required to submit and post

such files). Yes No

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Indicate by checkmark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405 of this chapter) is not contained in this form, and will not be contained, to the best of the 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 checkmark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a small reporting company. See the definitions of "large accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer "

Accelerated filer "

Non-accelerated filer "

Smaller reporting company x

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

State the aggregate market value of the voting and non-voting common equity held by non-affiliates computed by reference to the price at which the common equity was last sold, or the average of the bid and asked price of such common equity, as of the last business day of the registrant's most recently completed second fiscal quarter. The aggregate market value of the voting and non-voting common equity held by non-affiliates computed by reference to the price at which the common equity was sold on March 31, 2013, the last business day of the registrant's most recently completed second fiscal quarter was \$ 9,288,089.

Indicate the number of shares outstanding of each of the registrant's classes of common equity, as of the latest practicable date. The number of common shares issued and outstanding as of January 14, 2014 was 473,460,779 shares.

DOCUMENTS INCORPORATED BY REFERENCE

List hereunder the following documents if incorporated by reference and the part of the Form 10-K (e.g. Part I, Part II, etc.) into which the document is incorporated: (1) Any annual report to security holders; (2) Any proxy or information statement; and (3) Any prospectus filed pursuant to Rule 424(b) or (c) of the Securities Act of 1933. The listed documents should be clearly described for identification purposes (e.g., annual report to security holders for fiscal year ended December 24, 1980). None

Explanatory Paragraph

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This Amendment No. 2 on Form 10-K/A (this Amendment No. 2) amends and supersedes Part II, Item 9A. Disclosure Controls and Procedures which appeared in the Annual Report on Form 10-K of IceWEB, Inc. (the Company) for the year ended September 30, 2013, as filed with the Securities and Exchange Commission on January 14, 2014 (the Original Form 10-K) , as previously amended by Amendment No. 1 on Form 10-K/A filed with the Securities and Exchange Commission on January 28, 2014 (with the Original Form 10-K, collectively, the Form 10-K) in response to oral comments from the Securities and Exchange Commission. This Amendment No. 2 is being filed to further clarify, amend and restate Item 9A relating to our disclosure of the evaluation of our controls and procedures.

This amendment No. 2 also includes currently dated certifications pursuant to Sections 302 and 906 of the Sarbanes-Oxley Act of 2002 as Exhibits 31.1, 31.2, 32.1 and 32.2 as set forth in Part IV, Item 15 .

Except as described above, no other information in the Form 10-K has been updated and this Amendment No. 2 continues to speak as of the date of the Original Filing. This Amendment No. 2 is part of the Form 10-K and should be read in conjunction with the Form 10-K. Other events occurring after the filing of the Original Filing or other disclosures necessary to reflect subsequent events have been or will be addressed in other reports filed with or furnished to the SEC subsequent to the date of the Original Filing.

ITEM 9A. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

Under the supervision and with the participation of our management, including our principal executive officer and principal financial officer, we have conducted an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) under the Securities and Exchange Act of 1934, as of the end of the period covered by this report. Based on this evaluation, our principal executive officer and principal financial officer concluded as of the evaluation date that our disclosure controls and procedures were not effective.

Management's Annual Report on Internal Control Over Financial Reporting

Our management, including our Chief Executive Officer and Chief Financial Officer, is responsible for establishing and maintaining adequate internal control over financial reporting to provide reasonable assurance regarding the reliability of our financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. Internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of our assets, (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that our receipts and expenditures are being made only in accordance with authorizations of our management and directors, and (iii) provide reasonable assurance regarding prevention or timely detection of the unauthorized acquisition, use or disposition of our assets that could have a material effect on the financial statements.

As of September 30, 2013, management assessed the effectiveness of our company's internal control over financial reporting based on the criteria for effective internal control over financial reporting established in Internal Control--Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO") and SEC guidance on conducting such assessments. Based on that evaluation, they concluded that, during the period covered by this report, such internal controls and procedures were not effective as of September 30, 2013. This was due to deficiencies that existed in the design or operation of our internal control over the calculation of share-based expenses that adversely affected our internal controls and that may be considered to be material weaknesses. The matters involving internal controls and procedures that our company's management considered to be material weaknesses under the standards of the Public Company Accounting Oversight Board were ineffective controls over the calculation of share-based expenses. The aforementioned material weaknesses were identified by our company's Chief Financial Officer in connection with the audit of our financial statements as of September 30, 2013 and communicated the matters to our management.

Management believes that the material weaknesses set forth above did not have an effect on our company's financial results.

We are committed to improving our financial organization. As part of this commitment, in January, 2014 Management implemented additional review procedures to included procedures in the review of the calculation of share based expenses.

As a result of the implementation of the above procedures, Management has concluded that the material weakness described above has been remediated as of January, 2014.

We will continue to monitor and evaluate the effectiveness of our internal controls and procedures and our internal controls over financial reporting on an ongoing basis and are committed to taking further action and implementing additional enhancements or improvements, as necessary and as funds allow. This annual report does not include an attestation report of our company's registered accounting firm regarding internal control over financial reporting.

Changes in Internal Controls Over Financial Reporting

Except as noted above, there have been no changes in our internal control over financial reporting identified in connection with the evaluation required by paragraph (d) of Rules 13a-15 or 15d-15 under the Exchange Act that occurred during the Registrant's last fiscal quarter that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

PART IV

ITEM 15. EXHIBITS

- 2.1 Agreement and Plan of Reorganization and Stock Purchase Agreement with Disease S.I. Inc.(4)
- 2.2 Agreement and Plan of Merger with IceWEB Communications, Inc. (8)
- 2.3 Agreement and Plan of Merger with Seven Corporation (9)
- 3.1 Certificate of Incorporation (1)
- 3.2 Certificate of Amendment to Certificate of Incorporation (1)
- 3.3 Certificate of Amendment to Certificate of Incorporation (1)
- 3.4 Certificate of Amendment to Certificate of Incorporation (1)
- 3.5 Certificate of Amendment to Certificate of Incorporation (2)
- 3.6 Certificate of Amendment to Certificate of Incorporation (3)
- 3.7 Certificate of Amendment to Certificate of Incorporation (11)
- 3.8 Certificate of Designations of Series A Convertible Preferred Stock (12)
- 3.9 Certificate of Amendment to Certificate of Incorporation (13)
- 3.10 Bylaws (1)
- 3.11 Certificate of Designations of Series B Convertible Preferred Stock (17)
- 4.1 Form of Common Stock Purchase Warrant A (12)
- 4.2 Form of Common Stock Purchase Warrant B (12)
- 4.3 Form of Common Stock Purchase Warrant C (12)
- 4.4 Form of Series H Common Stock Purchase Warrant (16)
- 4.5 Form of Series I Common Stock Purchase Warrant (16)
- 4.6 Form of \$0.70 Common Stock Purchase Warrant A (16)
- 4.7 Form of Comerica Bank warrant (16)
- 4.8 Form of Common Stock Purchase Warrant D (17)
- 4.9 Form of Common Stock Purchase Warrant E (17)
- 4.10 Form of Common Stock Purchase Warrant F (17)
- 4.11 Form of Common Stock Purchase Warrant G (18)
- 4.12 Form of Common Stock Purchase Warrant for Sand Hill Finance LLC (18)
- 4.13 Secured Convertible Debenture for Sand Hill Finance LLC (25)

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4.14	Warrant Amendment Agreement with Sand Hill Finance LLC (25)
4.15	Form of Series Common Stock Purchase Warrant N (26)
4.16	Form of Senior Convertible Note (27)
4.17	Form of Series Common Stock Purchase Warrant O (27)
4.18	Form of Series Common Stock Purchase Warrant P (27)
4.19	Form of Series Common Stock Purchase Warrant Q (27)
4.20	Form of Series Common Stock Purchase Warrant R (30)
10.1	Acquisition Agreement with North Orlando Sports Promotions, Inc. (1)
10.2	Asset Purchase Agreement with Raymond J. Hotaling (5)
10.3	2000 Management and Director Equity Incentive and Compensation Plan (6)
10.4	Stock Purchase Agreement with Health Span Sciences, Inc. (7)
10.4	Stock Purchase Agreement with Health Span Sciences, Inc. (7)
10.5	Stock Purchase and Exchange Agreement with Interlan Communications (9)
10.6	Preferred Stock Purchase Agreement dated March 30, 2005 (12)
10.7	Registration Rights Agreement with Barron Partners LP (12)
10.8	Asset and Stock Purchase Agreement for iPlicity, Inc.(16)
10.9	Asset and Stock Purchase Agreement for DevElements, Inc. of Virginia (15)
10.10	Form of Loan and Security Agreement with Comerica Bank (16)
10.11	Forbearance Agreement (16)
10.12	Sublease Agreement for principal executive offices (16)
10.13	Preferred Stock Purchase Agreement dated September 8, 2005 (18)
10.14	Registration Rights Agreement with Barron Partners LP (18)
10.15	Financing Agreement with Sand Hill Finance LLC (18)
10.16	Lease Agreement for principal executive offices (19)
10.17	Retailer Marketing Agreement with CompUSA (20)
10.18	Stock Purchase Agreement with Inline Corporation (21)
10.19	First Amendment to Stock Purchase Agreement with Inline Corporation (21)
10.20	Convertible Debenture with Sand Hill Finance LLC (22)
10.21	Stock Purchase Agreement for Sale of IceWEB Virginia, Inc. (23)
10.22	Series C Preferred Stock Purchase Agreement (24)
10.23	Form of Securities Purchase Agreement for senior note offering (27)
10.24	Form of subsidiary guarantee (27)
10.25	Form of Registration Rights Agreement for senior note offering (27)
10.26	Letter agreement dated August 16, 2011 by and between IceWEB, Inc. and Rodman & Renshaw LLC, as amended (27)
10.27	Form of Subscription Agreement (30)
10.28	Form of Registration Rights Agreement (30)
10.29	IceWEB, Inc. 2012 Equity Compensation Plan (28)
10.30	Ninth Amendment to Financing Agreement and Waiver with Sand Hill Finance, LLC (29)
10.31	Loan Agreement dated November 2, 2012 by and between IceWEB, Inc. and IWEB Growth Fund, LLC (31)
10.32	Form of Confession of Judgment Promissory Note (32)
10.33	Amendment to Series O Warrant
10.34	Form of Secured Convertible Debenture with Sand Hill Finance, LLC
10.35	Agreement of Cancellation of Secured Convertible Debenture with Sand Hill Finance, LLC
10.36	Share Exchange Agreement between IceWEB, Inc. Computers & Tele-Com, Inc., KC NAP, LLC, the Stockholders of Computers & Tele-Com, Inc., and Streamside Partners, LLC
10.37	Escrow Agreement between parties of Computers & Tele-Com, Inc. and Law Offices of Donovan Dodrill, LLC
10.38	Master Lease Agreement with Agility Lease Fund III, LLC and IceWEB, Inc.
10.39	Equipment Lease Schedule with Agility Lease Fund III, LLC

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10.40	Security Agreement between IceWEB, Inc. and Agility Lease Fund III, LLC
10.41	Form of Series T Warrant
14.1	Code of Business Conduct and Ethics (16)
21.1	Subsidiaries of the registrant (16)
23.1	Consent of D Arelli Pruzansky, P.A. *
31.1	Rule 13a-14(a)/15d-14(a) Certification of Chief Executive Officer **
31.2	Rule 13a-14(a)/15d-14(a) Certification of Chief Financial Officer **
32.1	Section 906 Certification of Chief Executive Officer **
32.2	Section 906 Certification of Chief Financial Officer **

* previously filed herewith

** filed herewith

- (1) Incorporated by reference to the Form 10-SB, file number 000-27865, filed with on October 28, 1999, as amended.
- (2) Incorporated by reference to the definitive Information Statement on Schedule 14C as filed on June 18, 2001.
- (3) Incorporated by reference to the definitive Information Statement on Schedule 14C as filed on June 26, 2001.
- (4) Incorporated by reference to the Report on Form 8-K as filed on June 6, 2001.
- (5) Incorporated by reference to the Report on Form 8-K as filed on July 26, 2001.
- (6) Incorporated by reference to the definitive Information Statement on Schedule 14C as filed on July 23, 2001.
- (7) Incorporated by reference to the Report on Form 8-K as filed on December 4, 2001.
- (8) Incorporated by reference to the Report on Form 8-K as filed on April 4, 2002.
- (9) Incorporated by reference to the Report on Form 8-K as filed on August 1, 2003.
- (10) Incorporated by reference to the Report on Form 8-K/A as filed on February 20, 2004.
- (11) Incorporated by reference to the definitive Information Statement on Schedule 14C as filed on August 20, 2004.
- (12) Incorporated by reference to the Report on Form 8-K as filed on April 5, 2005.
- (13) Incorporated by reference to the definitive Information Statement on Schedule 14C as filed on April 4, 2005.
- (14) Incorporated by reference to Amendment No. 1 to the Report on Form 8-K/A as filed on February 20, 2004.
- (15) Incorporated by reference to the Report on Form 8-K as filed on July 23, 2004.
- (16) Incorporated by reference to the registration statement on Form SB-2, SEC file number 333-126898, as amended.
- (17) Incorporated by reference to our Annual Report on Form 10-KSB as filed on January 18, 2006.
- (18) Incorporated by reference to the Report on Form 8-K as filed on January 30, 2006.
- (19) Incorporated by reference to the registration statement on Form SB-2/A, SEC file number 333-126898 filed on January 30, 2006.
- (20) Incorporated by reference to the Report on Form 8-K as filed on June 22, 2006.
- (21) Incorporated by reference to the Report on Form 8-K as filed on January 3, 2009.
- (22) Incorporated by reference to the Report on Form 8-K as filed on December 1, 2009.
- (23) Incorporated by reference to the Report on Form 8-K as filed on April 15, 2010.
- (24) Incorporated by reference to the Report on Form 8-K as filed on July 31, 2010.
- (25) Incorporated by reference to the registration statement on Form S-1, SEC file number 333-167501, as amended.
- (26) Incorporated by reference to the Report on Form 8-K as filed on November 16, 2011.
- (27) Incorporated by reference to the Report on Form 8-K as filed on November 23, 2011.
- (28) Incorporated by reference to the Current Report on Form 8-K filed on August 28, 2012.
- (29) Incorporated by reference to the Current Report on Form 8-K filed on September 10, 2012.
- (30) Filed as an exhibit to the registration statement on Form S-1, SEC File No. 333-183463.
- (31) Incorporated by reference to the Current Report on Form 8-K filed on November 13, 2012.

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(32) Incorporated by reference to the Current Report on Form 8-K filed on November 13, 2012.
SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant had duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

ICEWEB, INC.

January 30 , 2014

By: /s/ Hal Compton
Hal Compton, Chief Executive Officer, principal executive officer, and Chairman

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

Signature	Title	Date
/s/ Hal Compton Hal Compton	Chief Executive Officer, principal executive officer, and Chairman	January 30 , 2014
/s/ Mark B. Lucky Mark B. Lucky	Chief Financial Officer, principal financial and accounting officer	January 30 , 2014
/s/ Raymond H. Pirtle, Jr. Raymond H. Pirtle, Jr.	Director	January 30 , 2014
/s/ Nicholas Carosi III Nicholas Carosi III	Director	January 30 , 2014
/s/ Jack Bush Jack Bush	Director	January 30 , 2014
/s/ Harry E. Soyster Harry E. Soyster	Director	January 30 , 2014
/s/ Dr. Mark Stavish Dr. Mark Stavish	Director	January 30 , 2014

