EVOLVING SYSTEMS INC
Form 10-K
March 08, 2010
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UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-K

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

For the fiscal year ended December 31, 2009

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: 0-24081

EVOLVING SYSTEMS, INC.

(Exact name of registrant as specified in its charter)

Delaware	**84-1010843**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification Number)
9777 Pyramid Court, Suite 100, Englewood, Colorado	**80112**

(Address of principal executive offices)	(Zip Code)

(303) 802-1000

(Registrant s telephone number, including area code)

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

Common Stock, Par Value $0.001 Per Share	**The Nasdaq Capital Market**
(Title of Class)	(Name of exchange on which registered)

Securities registered under Section 12(g) of the Act: **None**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ¨ No x

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Exchange Act. Yes ¨ No x

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes x No ¨

Indicate by check mark 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 pursuant 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 o No o

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant s knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. x

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer, or a smaller reporting company. See definition of large accelerated filer , 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 check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ¨ No x

The aggregate market value of the Common Stock held by non-affiliates of the registrant, based upon the last sale price of the Common Stock reported on the Nasdaq Capital Market, was approximately $36.4 million as of June 30, 2009.

The number of shares of Common Stock outstanding was 9,982,228 as of March 4, 2010.

DOCUMENTS INCORPORATED BY REFERENCE

The information required by Part III (Items 10, 11, 12, 13 and 14) is incorporated by reference to portions of the registrant s definitive proxy statement for the 2010 Annual Meeting of Stockholders, which will be filed with the Securities and Exchange Commission within 120 days after the close of the 2009 year.

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EVOLVING SYSTEMS, INC.

Annual Report on Form 10-K

For the year ended December 31, 2009

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FORWARD-LOOKING STATEMENTS

Except for the historical information contained in this document, this report contains forward-looking statements including estimates, projections, statements relating to our business plans, objectives and expected operating results and assumptions. These forward-looking statements generally are identified by the words believes, goals, projects, expects, anticipates, estimates, intends, strategy, plan and similar expressions. Forward-looking statements are based on current expectations and assumptions and are subject to risks and uncertainties which may cause our actual results to differ materially from those discussed here. Factors that could cause or contribute to such differences include, but are not limited to those discussed in this section, in the sections entitled Management s Discussion and Analysis of Financial Condition and Results of Operations and Risk Factors. We undertake no obligation to update or revise publicly any forward-looking statements, whether as a result of new information, future events or otherwise.

PART I

ITEM 1. BUSINESS

INTRODUCTION

Evolving Systems, Inc. is a leading provider of software solutions and services to the wireless, wireline and cable markets. We maintain long-standing relationships with many of the largest wireline, wireless and cable companies worldwide. Our customers rely on us to develop, deploy, enhance, maintain and integrate complex, reliable software solutions for a range of Operations Support Systems (OSS). Included among our more than 70 network operators is the largest wireline carrier, the second largest wireless carrier and the largest cable company in North America, as well as two of the world s largest wireless carriers headquartered outside of North America. We offer software products and solutions in four core areas:

- service activation solutions used to activate complex bundles of voice, video and data services for traditional and next generation wireless, wireline and cable networks;

- SIM card activation solutions dynamically allocate and assign resources to a wireless device when it is first used;

- numbering solutions manage carriers resource inventory and resource assignment processes including products that comply with government-mandated requirements regarding local number portability in North America; and

- <u>mediation solutions</u> support data collection for both service assurance and billing applications.

Our products support traditional and next generation network technologies, convergent service offerings, and advanced wireless and other broadband networks.

We report the operations of our business as two operating segments based on revenue type: license fees and services revenue and customer support revenue. We also report revenue based on three of the core areas described above. Because our SIM card activation solution is an early stage product, we report it within activation and numbering solutions. We further report geographic information based upon revenue and long-lived assets in the United States, United Kingdom and all other foreign countries as a group. Further information regarding our operating segments and geographical information is contained in Note 11 to our Consolidated Financial Statements included in Item 8 of this Annual Report on Form 10-K.

COMPANY BACKGROUND

Founded in 1985, we initially focused on providing custom software development and professional services to telecommunications companies in the United States. In 1996, concurrent with the passage of the Telecommunications Act of 1996 (the Telecom Act), we made a strategic decision to add software products to our established professional services offerings. The outcome of that decision was the creation of a comprehensive product portfolio, of which we are best known in North America, for our Local Number Portability and Number Management solutions.

In 2003 and 2004, we significantly expanded our portfolio of products as a result of three acquisitions that we made over the periods of November 2003 through November 2004. The first acquisition was CMS Communications, Inc. (CMS) in November 2003, where we acquired a network mediation and service assurance solution. In October 2004, we acquired Telecom Software Enterprises, LLC (TSE) adding Local Number Portability (LNP) and Wireless Number Portability (WNP) number ordering and provisioning monitoring and testing products. Finally, in November 2004, we acquired Tertio Telecoms Ltd. (Evolving Systems U.K.), a supplier of OSS software solutions for service activation and mediation to communication carriers throughout Europe, the Middle East, Africa and Asia. With this acquisition we expanded our markets beyond North America and added a service activation solution, *Tertio* , and a billing mediation solution, *Evident* , to our product portfolio. The consequence of these acquisitions is a significantly expanded product and service capability to address a larger portion of our customers OSS application needs with a balanced mix of products and product enhancements, as well as services.

Since the acquisition of Evolving Systems U.K., with our growing product portfolio and geographic reach, we enhanced our sales

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model to include both direct and indirect channels. We formed new relationships with network equipment providers and system integrators to extend our reach to new geographical regions as well as help us further penetrate our existing territories. Recently, we have added more regional partners to help with both local selling and deployments in emerging markets.

RECENT DEVELOPMENTS

- As part of our announced strategy, we continue to invest in expanding our sales and support capabilities to support our growth in the emerging markets. In 2009 we were successful in expanding our customer base, notably in Africa, Asia and Central America.

- We continued to make advances in the development, deployment and selling of our new product Dynamic SIM Allocation (DSA). In addition in 2009, we announced a new partnership with a leading SIM card manufacturer for the sales, support and distribution of DSA.

- During 2009, we paid $6.2 million to retire our subordinated notes, including accrued interest. These payments were made from cash on hand and $1.5 million in borrowings on our U.K. revolving credit facility. The subordinated debt payments were unscheduled and reduced balances classified as long-term as of December 31, 2008.

- Our Board of Directors approved a one-for-two reverse split of our common stock, as previously authorized and approved by our stockholders at the June 9, 2009 annual meeting, which took effect at 11:59 p.m. (Eastern time) on July 20, 2009 (the Effective Time). Our common stock began trading on a post-split basis on July 21, 2009. As a result of the reverse stock split, every two shares of our common stock was combined into one share of common stock. The reverse stock split affected all of our common stock outstanding immediately prior to the Effective Time of the reverse stock split as well as the number of shares of common stock available for issuance under our equity incentive plans. In addition, the reverse stock split reduced the number of shares of common stock issuable upon the exercise of stock options. Our common stock outstanding at June 30, 2009 was approximately 19.6 million shares. Adjusting for the reverse stock split, the common stock outstanding at June 30, 2009 was reduced to approximately 9.8 million shares. The number of authorized shares of common stock remains at 40.0 million. The reverse split did not affect the par value of our common stock which remains at $0.001. As a result of the reverse stock split, the stated capital on our balance sheet attributable to our common stock was reduced in proportion to the size of the reverse stock split. Common stock and additional paid-in capital balances, all share amounts, stock option amounts and per share/option prices appearing in this Annual Report on Form 10-K reflect the reverse stock split for all periods presented.

INDUSTRY DYNAMICS

The rapid introduction of new technologies such as wireless and broadband services has created a growing market for telecommunications solutions worldwide. This emergence of new technologies in telecommunications networks and end-user devices, consumer electronics, and personal computers, has created an industry that is in the midst of significant change. Carriers not only compete with companies from other industries, such as media and entertainment, but also with companies providing applications and services over the Internet. In such a competitive market, companies are increasingly bundling voice, messaging, data access, and music and video services in order to increase market share. This bundling of services is just one facet of what is called convergence. In order to facilitate convergence, as well as reduce costs, carriers are implementing a variety of network transformation programs that include: the migration to packet-switching transmission networks based on the Internet protocol (often called all-Internet Protocol (IP) networks); the migration to new service creation and delivery platforms that enable the provision of multimedia services over IP-based networks; and the introduction of one or more broadband access networks over existing wired infrastructure, new fiber deployments, cable access networks, and evolved wireless broadband networks including Global System for Mobile Communication (GSM)/EDGE, 3G/WCDMA/HSPA, and WiMAX. Along with the continued development of new technologies, carriers are facing increasing levels of competition due to the varying demand in connection types, subscribers and service usage, as well pricing declines due to regulatory and competitive pressures. Given the current economic climate many carriers are either aggressively pursuing cost reduction programs, increased sales efficiency, and/or are focusing on growth from value-added services (VAS). This complex and rapidly changing landscape is further affected by the continued consolidation of carriers and their suppliers.

OPERATIONS SUPPORT SYSTEMS (OSS)

OSS encompasses a broad array of software and systems that perform critical functions for telecommunications carriers, such as service fulfillment, service assurance, and billing. Service fulfillment encompasses ordering, provisioning and activation. Ordering systems collect customer information, retrieve current service information, capture and validate new service requests, verify the availability of selected services and transmit completed orders to one or more provisioning OSS. Inventory systems maintain both physical and logical views of all the telecommunications assets required to turn up a service. Carriers use provisioning and activation systems to turn up network service and turn services off and on for customers, as well as change or add services. Service assurance systems allow carriers to perform the testing, monitoring and reporting necessary to maintain appropriate network availability and feed operational data to other business systems. Service assurance systems also allow carriers to track and report on service conditions or outages in order to dispatch their large work force for necessary repairs. Carriers use billing systems to collate, manage and report usage information for partner and

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customer billing. OSS systems typically operate in a 24x7 environment to support the real-time communication networks that facilitate the carriers service offerings.

Traditionally, as carriers have added new services, such as wireless or Internet-based services, they have either developed their own in-house OSS applications or added new OSS applications from product vendors. These additional OSS systems can be difficult to integrate into the carriers operations, as they often utilize heterogeneous elements, making interoperability among the systems difficult. These OSS are further constrained by the many incremental changes that have been made in order to accommodate new computing and network technologies and new value-added services, such as call waiting, call forwarding and voice mail, broadband data and video. In addition, carriers have had to adapt their OSS to comply with government or regulatory mandates that in some cases change how systems and processes are required to work. Because of these challenges, carriers have difficulty replacing existing OSS due to the large investment and vast amounts of historical data contained in these systems. As a result, carriers continue to make incremental modifications to these OSS, in some cases further increasing their complexity and making it more difficult for the applications to be replaced. However, a trend over the past decade has been the replacement of a portion of the carrier s legacy OSS environment with OSS software packages designed to meet growing complex processes in the areas of service fulfillment, service assurance and billing.

PRODUCT PORTFOLIO

Dynamic SIM Allocation

In 2007, we announced our *Dynamic SIM Allocation* (DSA) solution that offers carriers a new way to provision wireless services by dynamically activating and assigning resources to the wireless device when it is first used. The wireless Subscriber Identity Module (SIM) card is central to the provision of wireless access and services for GSM/EDGE and 3G/WCDMA networks and is specified as part of the next generation LTE technologies. These networks represent the most common type of wireless technology used today by wireless operators world-wide. Typically, SIM cards are either pre-provisioned before they are distributed to the retail environment or are provisioned at the point-of-sale. Pre-provisioning SIM cards means that resources are allocated well in advance of the SIM card becoming available for sale, leading to poor utilization of numbers, increased network costs, and a poor user experience. Provisioning SIM cards at the point-of-sale overcomes many of these issues but at a high cost, as retail and back-office infrastructure needs to be in place and consequently distribution is constrained. Our DSA solution offers carriers the user experience and resource efficiency benefits of provisioning at the point-of-sale without demanding the retail and back-office infrastructure usually required. The solution offers a number of benefits including:

- Improve efficiency and utilization: Carriers can experience a high wastage of SIM cards that are never activated for a revenue-generating subscriber. Our solution reduces the cost of this wastage by removing the need for SIM cards to be pre-provisioned in network databases.

- Ensure availability: Carriers can find it difficult to effectively and reliably manage the utilization, ordering and distribution of SIM cards, especially when multiple SIM card variants and profiles are needed. The solution helps carriers to make sure new SIM cards and numbers are always available to meet demand.

- Easier to personalize: Prepaid subscribers have traditionally been unable to choose their mobile phone number easily and from a wide range of available numbers. With this solution, prepaid subscribers can choose their number using just their mobile phone, and carriers can monetize their valuable stock of vanity or golden numbers.

- Improved user experience: Carriers can have various customer care processes, like those for mobile number portability, or replacing lost or stolen SIM cards, that are inefficient and have high operational costs. The solution helps carriers provide more customer self-care for an improved user experience and lower costs.

<u>Service Activation</u>

Our service activation solution, *Tertio*, is employed by carriers to activate a new subscriber or to add a new service to an existing subscriber. Our Tertio product provides a flexible operating environment and can be used by carriers to manage their voice, data, and content service needs for both their traditional and broadband IP networks. Our solution is deployed as the service activation engine for over 70 networks around the world including two of the world s largest wireless carriers.

Tertio is an integrated solution comprised of the following components:

- Tertio Service Composer a modeling tool that simplifies the creation of new services;

- Tertio Content Connector a tool used for activation of next-generation services;

- Tertio Activation Designer a tool that is designed to speed network feature activation;

- Tertio Service Activation the platform that provides scalability and performance, flexibility and a graphical interface;

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- Tertio Service Verification a module that allows carriers to verify that the services implemented in the network match those that were in the original service order. By providing this capability, carriers can continually check the accuracy of their order/activation processes; and

- Tertio Process Management a module that allows carriers to manage long running transactions. Long running transactions can often occur when a carrier is implementing a converged activation solution that encompasses the activation of both a wireless and fixed line (or IP) component.

Our Tertio solution addresses the entire service lifecycle, enabling service providers to better plan, manage and execute the introduction of new services. Tertio allows carriers to introduce new network technologies and eases the burden of integration with existing devices and systems.

Numbering Solutions

Evolving Systems Numbering Solutions product line includes our Local Number Portability (LNP) and Wireless Number Portability (WNP) products as well as our *NumeriTrack*® number management solution.

LNP and WNP

Our Number Portability software solution enables carriers to comply with U.S. and Canadian regulations for implementing LNP and WNP. Number porting allows customers the ability to retain, or port , their phone numbers when changing from one service provider to another. Our LNP software, which includes the functionality to support ordering, provisioning, reporting, testing and exchanging information between carriers, is widely used by wireline, wireless and cable service providers in North America. Over time, we have expanded our number portability product features and developed other number portability related OSS software products for the wireline, wireless and cable markets. Our full LNP and WNP product line is comprised of the following suite of products:

- *OrderPath*® order entry;

- *NumberManager*® network provisioning;

- *LNP DataServer* data warehousing;

- *VeriPort* NPAC testing; and
- *Verify* product suite for monitoring carriers application communications for optimum service assurance.

Number Management

We developed our *NumeriTrack* solution in response to the Federal Communications Commission (FCC) mandated number conservation and number pooling regulations for both wireline and wireless carriers. These regulations, implemented in 2003, resulted from the FCC s concern that the U.S. was running out of 10-digit telephone numbers. As a result, the FCC designed regulations to extend the life of the 10-digit numbering plan well into the 21st century by changing the way phone numbers are allocated to carriers and specifying rules regarding the assignment and classification of those numbers. The regulations also require regular utilization reporting by carriers and articulation of circumstances under which previously underutilized telephone numbers must be returned to the pool to be reallocated to other carriers. Our *NumeriTrack* solution, which has been licensed to seven carriers, facilitates compliance with the FCC mandates for both wireline and wireless carriers (and cable carriers providing telephony services). Our solution provides inventory management of phone numbers and other assets such as SIM cards and supports inventory assignments and integration with carriers existing back-office systems. The *NumeriTrack* solution also contains features for the inventory of, and assignment logic for, numbers associated with IP addresses and is used by a large carrier in the U.S. for deployment of a Voice over Internet Protocol (VoIP) service offering. As is the case with our LNP and WNP solutions, the implementation of our *NumeriTrack* solution has far-reaching implications for integration with carriers existing OSS environments and business processes. Beginning in 2006, we enhanced our *NumeriTrack* application to address markets outside of North America.

Our investments in our International *NumeriTrack* solution allow us to sell and deploy this solution in markets outside of North America with a version of the product that we call International *NumeriTrack*. The resource management and assignment capabilities of International *NumeriTrack* enables carriers around the globe to acquire and track phone numbers and other logical and physical assets for their products on both traditional and next generation wireline and wireless networks. The solution will efficiently manage those assets through the lifecycle of the service, allowing carriers to spend less in acquiring new resources such as IP addresses, phone numbers and SIM cards for various products and regions.

Mediation

Our mediation portfolio consists of network data mediation products and billing mediation. Our billing mediation product is *Evident*. Our network mediation products are Traffic Data Management System (TDMS) and *Mediation Central* .

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Billing Mediation

Billing mediation is the process of collecting network usage data and verifying that usage data is accurate, and is a required pre-condition for generating accurate bills for a carrier s customers. Billing mediation s importance lies in its ability to provide a systematic point of reliability and assurance between network consumption and the billing system input. Our Evident product supports convergent voice, data, and content services. Evident software enables the accurate management of data, allowing reconciliation of data inputs and outputs. In addition, it provides support for compliance with relevant regulatory, accounting and data integrity requirements. This product also provides service usage data for business intelligence, revenue assurance, and next-generation billing solutions. Our Evident solution can be used by wireline, broadband and wireless carriers and provides carrier-grade support in terms of reliability, performance, and scalability.

As carriers bring new services to market they often need a new mediation process to support those new services. Our Evident solution has been designed with the flexibility to support new service concepts and designs.

Network Assurance and Data Collection Solutions

A common challenge for telecommunications carriers is to create an integration layer between network element (NE) devices and the OSS applications that provision, monitor and control these devices. Deploying new devices needed for extending service offerings into the network can therefore be difficult, time consuming and expensive. Our mediation solutions provide a common framework for simplifying the collection and distribution of critical network data. Our network mediation product, Mediation Central, supports a broad array of technologies that carriers typically deploy in their network. Mediation Central provides support for wireline, broadband, transport and wireless networks. Our Mediation Central product supports both centralized and distributed configurations allowing, for example, carriers to deploy a single solution for all their data collection and distribution needs. Our TDMS product is a legacy product that helps traditional wireline carriers collect usage data from their circuit switch networks.

PROFESSIONAL AND INTEGRATION SERVICES

Our Professional and Integration Services team provides expert consulting services and advice for the design, customization, integration and deployment of our Service Activation, Numbering Solutions, and Mediation product portfolios. The Professional and Integration Services team works closely with the Product Engineering and Development teams to ensure our customers are up to date with our latest product developments. These services cover all aspects of the project lifecycle including system architecture and design, component design, development and customization, system integration and testing, deployment and production support, program and project level management, domain and product expertise. Our teams work closely with customers and integration partners and have established close, long-term relationships with operators in the Americas, Europe, the Middle East, Africa and Asia Pacific regions.

RESEARCH AND DEVELOPMENT

We expend amounts on research and development (R&D), particularly for new products and/or for enhancements of existing products. R&D is expensed as incurred. For the years ended December 31, 2009, 2008 and 2007, we expensed $3.5 million, $3.6 million and $2.4 million, respectively, in R&D costs. The majority of all new R&D investments in 2009 have gone into enhancing our core service activation solutions and numbering solutions products as well as the further development of our DSA solution.

We focus our product development efforts on identifying specific industry and customer business needs as well as market requirements and then developing solutions that leverage our existing product capabilities. Based upon the identified customer business needs, our research and development efforts comprise a combination of design and development of new products or features to enhance our existing products, and design and development of new product functionality as identified in our product roadmaps. We build investment plans for our principal product areas and we make other investments in tools and product extensions to accelerate the development, implementation and integration process for customer solutions.

SALES AND MARKETING

Our sales force is primarily a field-based organization structured to focus on specific geographical territories: North America, Europe, Middle East and Africa, Russia and the Commonwealth of Independent States, Asia Pacific, and Central and Latin America. Our sales activities cover both direct sales to the end user customers as well as sales through partners such as Gemalto, Oberthur, IBM, Siemens, and Alcatel who will often include our products as part of a wider solution offering which they have architected. We plan to continue to work with these or other partners in the future as well as looking to develop new potential routes to market for our products.

The primary objective of our marketing organization is to identify markets for our products and to establish an awareness of our offerings in those markets through a combination of direct marketing, web marketing, and through our participation in shows, conferences, and industry bodies. The marketing organization also creates electronic and print based sales collateral to support these activities, as well as maintaining a permanent presence on the web.

Evolving Systems offers a complex product set which lends itself to a high degree of on-site consultative selling with the prospect

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as part of the sales process. Our sales efforts also cover a large amount of interaction with existing customers where we work to develop incremental revenue streams on existing platforms as well as the introduction of new value propositions. The sales team is responsible for the generation of proactive proposals to prospects as well as the management and delivery of responses to competitive tenders. This complex, highly involved approach creates a long sales cycle requiring us to invest a considerable amount of time toward uncertain results.

COMPETITION

The market for telecommunications OSS products is intensely competitive and is subject to rapid technological change, changing industry standards, regulatory developments and consolidation. We face increasing demand for improved product performance, reduced prices and rapid integration capabilities, and pricing pressures. Our existing and potential competitors include many large domestic and international companies that often have substantially greater financial, technological, marketing, distribution and other resources, larger installed customer bases and longer-standing relationships with telecommunications customers than we do. The market for telecommunications OSS software and services is extremely large. And, we currently hold only a small portion of total market share. Our increased focus on numbering solutions and activation solutions has resulted in our achieving a measurable and reasonable market share in those two areas.

Our principal competitors in service activation are Comptel Corporation, Oracle Corporation, Synchronoss Technologies, Inc., and Huawei. Our principal competitors in the numbering solutions market include Telcordia Technologies, Inc., Neustar, Inc. and Syniverse Technologies. In mediation, we compete with many different companies including Intec Telecom Systems PLC, Amdocs and Comptel. We believe we have an early advantage with our DSA solution but are aware of potential competition for some elements of our solution s value proposition from companies such as Giesecke & Devrient GmbH, Hewlett-Packard Company and Comptel.

We believe that our ability to compete successfully depends on a wide range of factors. We deliver value by offering quality solutions at a competitive price that are tailored specifically to the customer. Once a customer has implemented one of our products, we often receive subsequent orders for enhancements and change requests to add functionality. This follow-on business, and the fact that it is a complex and expensive process to replace our software once installed and integrated into the carrier s networks, provides an attractive revenue opportunity for us. Furthermore, many of our customer relationships span five years or more with some extending beyond ten years. We believe these long-term relationships give us a competitive advantage and can be a barrier to entry for our competitors.

SIGNIFICANT CUSTOMERS

In 2009, approximately 19% of our consolidated revenue came from one customer in the telecommunications industry. This customer is located in the U.S. The loss of this customer would have a material adverse effect on our business as a whole. In 2008, approximately 34% of our consolidated revenue came from two unrelated customers in the telecommunications industry. Of these customers, one is located in the U.S. and the other in the U.K. The loss of either of these customers would have a material adverse effect on our business as a whole.

INTELLECTUAL PROPERTY

We rely on a combination of patents, copyright, trademark and trade secret laws, as well as confidentiality agreements and licensing arrangements, to establish and protect our proprietary rights. We presently have U.S. and Canadian patents on elements of our principal LNP OSS products, *NumberManager* and *OrderPath* and have a patent pending in the U.S. and other countries on elements of our DSA product.

BACKLOG

We define backlog as firm non-cancelable sales orders that are anticipated to be delivered and recognized in revenue over the next twelve months. As of December 31, 2009 and 2008, our backlog was approximately $20.8 and $20.6 million, respectively. Our backlog at December 31, 2009 was comprised of license fees and services of $8.5 million and customer support of $12.3 million compared to license fees and services of $8.8 million and customer support of $11.8 million at December 31, 2008.

EMPLOYEES

As of December 31, 2009, we employed 244 people including 55 in the United States, 76 in the United Kingdom and 113 in Bangalore, India. Of our worldwide staff, 86% are involved in product delivery, development, support and professional services, 6% in sales and marketing, and 8% in general administration.

ACCELERATED FILER STATUS

Companies considered accelerated or large accelerated filers under Securities Exchange Act Rule 12b-2, are required to comply with the internal control reporting and disclosure requirements of Section 404 of the Sarbanes-Oxley Act of 2002. An accelerated or large accelerated filer is defined as a company that meets the following conditions:

- Has a common equity public float of $75 million or more as of the last business day of its most recently completed second fiscal quarter;

- Has been subject to the reporting requirements of Section 13(a) or 15(d) of the Exchange Act for a period of at least 12

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calendar months;

- Previously filed at least one annual report pursuant to Section 13(a) or 15(d) of the Exchange Act; and
- Is not eligible to use smaller public company disclosure standards for its annual and quarterly reports.

As of the last business day of our most recently completed second fiscal quarter, June 30, 2009, our common equity public float was less than $75 million. Therefore, we are not an accelerated or large accelerated filer, as defined in Securities Exchange Act Rule 12b-2. Under current SEC rules, we are required in this Annual Report on Form 10-K to provide a report by management assessing the effectiveness of our internal control over financial reporting as of December 31, 2009 and will be required to provide an auditor s report on internal control over financial reporting in our Annual Report on Form 10-K for the year ended December 31, 2010.

AVAILABLE INFORMATION

You can find out more information about us at our Internet website located at www.evolving.com. The information on our website is not incorporated into this Annual Report on Form 10-K. Our Annual Reports on Form 10-K, our Quarterly Reports on Form 10-Q, and our Current Reports on Form 8-K and any amendments to those reports are available free of charge on our Internet website as soon as reasonably practicable after we electronically file such material with the SEC. Additionally, these reports are available at the SEC s Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549 or on the SEC s website at www.sec.gov. Information on the operation of the Public Reference Room can be obtained by calling the SEC at 1-800-SEC-0330.

ITEM 1A. RISK FACTORS

Risks Related to Our Business

Because our quarterly and annual operating results are difficult to predict and may fluctuate, the market price for our stock may be volatile.

Our operating results have fluctuated significantly in the past and may continue to fluctuate significantly in the future. Fluctuations in operating results may result in volatility of the price of our common stock. These quarterly and annual fluctuations may result from a number of factors, including:

- the size of new contracts and when we are able to recognize the related revenue;
- our rate of progress under our contracts;
- foreign exchange fluctuations;
- budgeting cycles of our customers;
- changes in the terms and rates related to the renewal of support agreements;
- the mix of products and services sold;
- the timing of third-party contractors delivery of software and hardware;
- level and timing of expenses for product development and sales, general and administrative expenses;
- changes in our strategy;
- general economic conditions.

Personnel costs are a significant component of our budgeted expense levels and, therefore, our expenses are, to a degree, variable based upon our expectations regarding future revenue. As discussed above, our revenue is difficult to forecast and our sales cycle and the size and timing of significant contracts vary substantially among customers. Accordingly, we may be unable to adjust spending in a timely manner to compensate for any unexpected shortfall in revenue. Any significant shortfall from anticipated levels of demand for our products and services could adversely affect our business, financial condition, results of operations and cash flows.

Based on these factors, we believe our future quarterly and annual operating results may vary significantly from quarter to quarter and year to year. As a result, quarter-to-quarter and year-to-year comparisons of operating results are not necessarily meaningful nor do they indicate what our future performance will be. Furthermore, we believe that in future reporting periods if our operating results fall below the expectations of public market analysts or investors, it is possible that the market price of our common stock could go down.

Our results of operations could be negatively impacted if we are unable to manage our liquidity.

Our cash forecast indicates that we will have sufficient liquidity to cover anticipated operating costs as well as debt service payments for at least the next twelve months, but this could be negatively impacted to the extent we are unable to invoice and collect from our customers in a timely manner, or an unexpected adverse event, or combination of events occurs. Therefore, if the timing of cash generated from operations is insufficient to satisfy our liquidity requirements, we may require access to additional funds to support our business objectives through a credit facility or possibly the issuance of additional equity. Additional financing may not be available at all or, if available, may not be obtainable on terms that are favorable to us and not dilutive.

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Our revolving lines of credit call for the acceleration of payments if certain covenants are breached or cash balance thresholds are achieved.

Our revolving credit facility contains certain affirmative and negative covenants that, if breached, could result in any outstanding amounts becoming immediately due and payable. The covenants include our agreement to do the following:

- maintain a specified ratio of debt to EBITDA, minimum EBITDA for the trailing twelve months, minimum liquidity, and ratio of fixed charges to EBITDA;
- comply with applicable laws and licensing requirements;
- file and pay all applicable taxes as they become due; and
- operate in the ordinary course of business.

The covenants also include our agreement not to do any of the following (except as specifically authorized):

- liquidate, dissolve or wind-up operations;
- cause or permit a change in control;
- pay any dividends or make prepayments on any indebtedness;
- acquire, merge or consolidate with any other businesses or entities or make investments in third parties;
- sell or transfer a substantial portion of our assets;
- incur additional indebtedness or permit any liens on our assets;
- make loans or enter into letters for credit or guarantees;
- enter into affiliate transactions;
- make negative pledges;
- change our methods of accounting and record keeping away from generally accepted accounting principles;
- change the nature of our business materially;
- make capital expenditures beyond established thresholds; or

- take certain other operational actions.

The covenants may limit our flexibility in planning for, or reacting to changes in, our business. Failure to comply with the covenants, if not waived, could result in the acceleration of the debt. If we are required to pay the debt on an accelerated basis, it would have a significant adverse impact on our liquidity and financial condition and could cause us to incur additional indebtedness.

If we are unable to properly supervise our software development subsidiary in India, or if political or other uncertainties interfere, we may be unable to satisfactorily perform our customer contracts and our business could be materially harmed.

In February 2004, we formed Evolving Systems India, a wholly owned subsidiary of Evolving Systems, Inc. In the past we experienced a high level of turnover with our Indian development staff as a result of strong competition for technology-based personnel in India, and we may experience high turnover again in the future. In addition, salary levels in India are steadily increasing, reducing the competitive advantages associated with offshore labor. If we are unable to effectively manage the Evolving Systems India development staff and/or we continue to experience high levels of staff turnover, we may fail to provide quality software in a timely fashion, which could negatively affect our ability to satisfy our customer contracts. Furthermore, political changes and uncertainties in India could negatively impact the business climate there. As a result, we may be unable to satisfactorily perform our customer contracts and our business, financial condition and results of operations could be materially harmed.

We operate a global business that exposes us to additional currency, economic, regulatory and tax risks.

A significant part of our revenue comes from international sales. Our international operations are subject to the risk factors inherent in the conduct of international business, including:

- fluctuations in currency exchange rates;
- compliance with U.S. Foreign Corrupt Practices acts and local anti-bribery laws and regulations;
- unexpected changes in regulatory requirements;
- tariffs and other barriers;
- political and economic instability;
- limited intellectual property protection;
- difficulties in staffing and managing foreign operations; and
- potentially adverse tax consequences in connection with repatriating funds.

The U.S. Dollar has recently strengthened against foreign currencies and approximately half of our revenue is transacted in non-Dollar denominated currencies (e.g. British Pound Sterling and Euro). As a result, when the dollar strengthens, the Company s revenue, when converted to U.S. dollars, is reduced. At the same time, with more than 50% of the Company s operating expenses originating overseas, the strengthening dollar conversely lowers expenses outside of the U.S. Although this has provided some defense against currency fluctuations for our bottom line results, we may not be able to maintain this ratio of revenue to expense in the future. In addition, we may not be able to sustain or increase our international revenue or repatriate cash without incurring substantial risks

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involving floating currency exchange rates and income tax expenses. Any of the foregoing factors may have a material adverse impact on our international operations and, therefore, our business, financial condition and results of operations.

Changes or challenges to the regulations of the communication industry could hurt the market for our products and services.

The market for our traditional North American OSS products was created and has primarily been driven by the adoption of regulations under the Telecom Act requiring North American carriers to implement number portability as a condition to being permitted to provide long distance services. Therefore, any changes to these regulations, or the adoption of new regulations by federal or state regulatory authorities under the Telecom Act, or any legal challenges to the Telecom Act, could hurt the market for our products and services. In addition, customers may require, or we may find it necessary or advisable, to modify our products or services to address actual or anticipated changes in regulations affecting our customers. This could also materially harm our business, financial condition, results of operations, and cash flows. We are also subject to numerous regulatory requirements of foreign jurisdictions. Any compliance failures or changes in such regulations could, likewise, materially harm our business, financial condition, results of operations and cash flows.

Consolidation in the communications industry may impact our financial performance.

The communications industry has experienced and continues to experience significant consolidation, both in the United States and internationally. These consolidations have caused us to lose customers and may result in fewer potential customers requiring OSS solutions in the future. In addition, combining companies may re-evaluate their OSS solutions and their capital expenditures and may choose a competitive OSS solution used by one of the combining companies. As our customers become larger, they generally have stronger purchasing power, which can result in reduced prices for our products, lower margins on our products and longer sales cycles. Because of the uncertainty resulting from these consolidations and the variations in our quarterly operating results, it is extremely difficult for us to forecast our quarterly and annual revenue and we have discontinued providing revenue guidance. All of these factors can have a negative impact on our financial performance, particularly in any fiscal quarter. This negative impact, in turn, could result in noncompliance with certain financial covenants governing our revolving credit facility. If we were unsuccessful in amending the agreements or obtaining a waiver from our senior lender in future reporting periods, these violations could result in such credit facility becoming immediately due and payable. We may not be successful in amending the agreements or obtaining a waiver of any covenant violation.

We depend on a limited number of significant customers for a substantial portion of our revenue, and the loss of one or more of these customers could adversely affect our business.

In the past, and currently, we earn a significant portion of our revenue from a small number of customers in the communications industry. This has been mitigated somewhat by the expansion of our customer base in recent years, but, as noted above, consolidation in the industry continues. The loss of any significant customer, delays in delivery or acceptance of any of our products by a customer, delays in the performance of services for a customer, or delays in collection of customer receivables could harm our business and operating results.

Our products are complex and have a lengthy implementation process; unanticipated difficulties or delays in the customer acceptance process could result in higher costs and delayed payments.

Implementing our solutions can be a relatively complex and lengthy process since we typically customize these solutions for each customer s unique environment. Often our customers may also require rapid deployment of our software solutions, resulting in pressure on us to meet demanding delivery and implementation schedules. Delays in implementation may result in customer dissatisfaction and/or damage our reputation which could materially harm our business.

The majority of our existing contracts provide for acceptance testing by the customer, which can be a lengthy process. Unanticipated difficulties or delays in the customer acceptance process could result in higher costs, delayed payments, and deferral of revenue recognition. In addition, if our software contains defects or we otherwise fail to satisfy acceptance criteria within prescribed times, the customer may be entitled to cancel its contract and receive a refund of all or a portion of amounts paid or other amounts as damages, which could exceed related contract revenue and which could result in a future charge to earnings. Any failure or delay in achieving final acceptance of our software and services could harm our business, financial condition, results of operations and cash flows.

Sales of our products typically require significant review and internal approval processes by our customers over an extended period of time. Interruptions in such process due to economic downturns, consolidations or otherwise could result in the loss of our sale or deferral of revenue into later periods and adversely affect our financial performance.

Large communications solutions used for enterprise-wide, mission-critical purposes, involve significant capital expenditures and lengthy implementation plans. Prospective customers typically commit significant resources to the technical evaluation of our products and services and require us to spend substantial time, effort and money providing education regarding our solutions. This evaluation process often results in an extensive and lengthy sales cycle, typically ranging between three and twelve months, making it difficult for us to forecast the timing and magnitude of our contracts. For example, customers budgetary constraints and internal

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acceptance reviews may cause potential customers to delay or forego a purchase. The delay or failure to complete one or more large contracts could materially harm our business, financial condition, results of operations and cash flows and cause our operating results to vary significantly from quarter to quarter and year to year.

Mergers and acquisitions of large communications companies, as well as the formation of new alliances, have resulted in a constantly changing marketplace for our products and services. Purchasing delays and pricing pressures associated with these changes are common. In addition, many of the companies in the communications industry have kept capital expenditures at historically low levels in response to changes in the communications marketplace; some companies have declared bankruptcy, cancelled contracts, delayed payments to their suppliers or delayed additional purchases. The delay or failure to complete one or more large contracts, or the loss of a significant customer, could materially harm our business, financial condition, results of operations, or cash flows, and cause our operating results to vary significantly from quarter to quarter and year to year.

Many of our products and services are sold on a fixed-price basis. If we incur budget overruns, our margins and results of operations may be materially harmed.

Currently, a large portion of our revenue is from contracts that are on a fixed-price basis. We anticipate that customers will continue to request we provide software and integration services as a total solution on a fixed-price basis. These contracts specify certain obligations and deliverables we must meet regardless of the actual costs we incur. Projects done on a fixed-price basis are subject to budget overruns. On occasion, we have experienced budget overruns, resulting in lower than anticipated margins. We may incur similar budget overruns in the future, including overruns that result in losses on these contracts. If we incur budget overruns, our margins may be harmed, thereby affecting our overall profitability.

Percentage-of-completion accounting used for most of our projects can result in overstated or understated profits or losses.

The revenue for most of our contracts is accounted for on the percentage-of-completion method of accounting. This method of accounting requires us to calculate revenue and profits to be recognized in each reporting period for each project based on our predictions of future outcomes, including our estimates of the total cost to complete the project, project schedule and completion date, the percentage of the project that is completed and the amounts of any probable unapproved change orders. Our failure to accurately estimate these often subjective factors could result in reduced profits or losses for certain contracts.

The industry in which we compete is subject to rapid technological change. If we fail to develop or introduce new, reliable and competitive products in a timely fashion, our business may suffer.

The market for our products and services is subject to rapid technological changes, evolving industry standards, changes in carrier requirements and preferences and frequent new product introductions and enhancements. The introduction of products that incorporate new technologies and the emergence of new industry standards can make existing products obsolete and unmarketable. In addition, internationalizing products that we have developed for our U.S. customer carriers is a complex process. To compete successfully, we must continue to design, develop and sell enhancements to existing products and new products that provide higher levels of performance and reliability in a timely manner, take advantage of technological advancements and changes in industry standards and respond to new customer requirements. As a result of the complexities inherent in software development, major new product enhancements and new products can require long development and testing periods before they are commercially released and delays in planned delivery dates may occur. We may not be able to successfully identify new product opportunities or achieve market acceptance of new products brought to market. In addition, products developed by others may cause our products to become obsolete or noncompetitive. If we fail to anticipate or respond adequately to changes in technology and customer preferences, or if our products do not perform satisfactorily, or if we have delays in product development, we may lose customers and our sales may deteriorate.

The market for our number portability and service activation products is mature and we may not be able to successfully develop new products to remain competitive.

The market for our number portability products and our service activation product is mature and we may not be able to successfully identify new product opportunities. If we are unable to identify new product opportunities sales and profit growth would be adversely affected.

The market for our new products is uncertain and we may not be able to generate sufficient demand for those products to grow our business.

The market for our new products, specifically International *NumeriTrack* and DSA, is uncertain and we are still in the early stages of developing customer demand for these products. Our current strategy is heavily reliant on achieving increased sales of these products and if we are unable to achieve market acceptance of these products our sales and profit growth would be adversely affected.

The communications industry is highly competitive and if our products do not satisfy customer demand for performance or price, our customers could purchase products and services from our competitors.

Our primary markets are intensely competitive and we face continuous demand for improved product performance, new product features and reduced prices, as well as intense pressure to accelerate the release of new products and product enhancements.

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Our existing and potential competitors include many large domestic and international companies, including some competitors that have substantially greater financial, manufacturing, technological, marketing, distribution and other resources, larger installed customer bases and longer-standing relationships with customers than we do. Our principal competitors in the numbering solutions market include Telcordia Technologies, Inc., Syniverse Technologies and NeuStar, Inc. Our principal competitors in activation are Oracle (as a result of its acquisition of Metasolv), Comptel, Intec and Synchronoss Technologies. In mediation, we compete with many different companies with no single dominant competitor. Customers also may offer competitive products or services in the future since customers who have purchased solutions from us are not precluded from competing with us. Many telecommunications companies have large internal development organizations, which develop software solutions and provide services similar to the products and services we provide. We also expect competition may increase in the future from application service providers, existing competitors and from other companies that may enter our existing or future markets with solutions which may be less costly, provide higher performance or additional features or be introduced earlier than our solutions.

We believe that our ability to compete successfully depends on numerous factors, including the quality and price competitiveness of our products and services compared to those of our competitors, the emergence of new industry standards and technical innovations and our ability to respond to those changes. Some of these factors are within our control, and others are not. A variety of potential actions by our competitors, including a reduction of product prices or increased promotion, announcement or accelerated introduction of new or enhanced products, or cooperative relationships among competitors and their strategic partners, could negatively impact the sales of our products and we may have to reduce the prices we charge for our products. Revenue and operating margins may consequently decline. We may not be able to compete successfully with existing or new competitors or to properly identify and address the demands of new markets. This is particularly true in new markets where standards are not yet established. Our failure to adapt to emerging market demands, respond to regulatory and technological changes or compete successfully with existing and new competitors would materially harm our business, financial condition, results of operations and cash flows.

Our business depends largely on our ability to attract and retain talented employees.

Our ability to manage future expansion, if any, effectively will require us to attract, train, motivate and manage new employees successfully, to integrate new management and employees into our overall operations and to continue to improve our operations, financial and management systems. We may not be able to retain personnel or to hire additional personnel on a timely basis, if at all. Because of the complexity of our software solutions, a significant time lag exists between the hiring date of technical and sales personnel and the time when they become fully productive. We have at times experienced high employee turnover and difficulty in recruiting and retaining technical personnel. Our failure to retain personnel or to hire qualified personnel on a timely basis could adversely affect our business by impacting our ability to develop new products, to complete our projects and secure new contracts.

Our products are complex and may have errors that are not detected until deployment, and litigation related to warranty and product liability claims could be expensive and could negatively affect our reputation and profitability.

Our agreements with our customers typically contain provisions designed to limit our exposure to potential liability for damages arising out of the use of or defects in our products. These limitations, however, tend to vary from customer to customer and it is possible that these limitations of liability provisions may not be effective. We currently have errors and omissions insurance, which, subject to customary exclusions, covers claims resulting from failure of our software products or services to perform the function or to serve the purpose intended. To the extent that any successful product liability claim is not covered by this insurance, we may be required to pay for a claim. This could be expensive, particularly since our software products may be used in critical business applications. Defending such a suit, regardless of its merits, could be expensive and require the time and attention of key management personnel, either of which could materially harm our business, financial condition and results of operations. In addition, our business reputation could be harmed by product liability claims, regardless of their merit or the eventual outcome of these claims.

Our measures to protect our proprietary technology and other intellectual property rights may not be adequate and if we fail to protect those rights, our business would be harmed.

Our success and ability to compete are dependent to a significant degree on our proprietary technology. We rely on a combination of patent, copyright, trademark and trade secret laws, as well as confidentiality agreements and licensing arrangements, to establish and protect our proprietary rights. We have patents pending in U.S. and other countries on elements of our DSA product and we have U.S. and Canadian patents on elements of our LNP products, ***NumberManager***® and ***OrderPath***®, and U.S. patents on elements of some of our other products. In addition, we have registered or filed for registration of certain of our trademarks. Our patent portfolio is relatively small and given the cost of obtaining patent protections, we may choose not to patent certain inventions that turn out to be important. There is also the possibility that a third party may copy or otherwise obtain and use our products or technology without authorization or may develop similar technology independently through reverse engineering or other means. In addition, the laws of some foreign countries may not adequately protect our proprietary rights. Our means of protecting our proprietary rights in the U.S. or abroad may not be adequate or others may independently develop technologies that are similar or superior to our technology, duplicate our technology or design around any of our patents. If our intellectual property protection proves inadequate, we may lose our competitive advantage and our future financial results may suffer.

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In the event that we are infringing upon the proprietary rights of others or violating licenses, we may become subject to infringement claims that may prevent us from selling certain products and we may incur significant expenses in resolving these claims.

It is also possible that our business activities may infringe upon the proprietary rights of others, or that other parties may assert infringement claims against us. Those claims may involve patent holding companies or other adverse patent owners who have no relevant product revenue or their own, and against whom our own patents may provide little or no deterrence. If we become liable to any third party for infringing its intellectual property rights, we could be required to pay substantial damage awards and to develop non-infringing technology, obtain licenses, or to cease selling the applications that contain the infringing intellectual property. Litigation is subject to inherent uncertainties, and any outcome unfavorable to us could materially harm our business. Furthermore, we could incur substantial costs in defending against any intellectual property litigation, and these costs could increase significantly if any dispute were to go to trial. Our defense of any litigation, regardless of the merits of the complaint, likely would be time-consuming, costly, and a distraction to our management personnel. Adverse publicity related to any intellectual property litigation also could harm the sale of our products and damage our competitive position.

Certain software developed or used by Evolving Systems, as well as certain software acquired in our acquisitions of CMS, TSE or Evolving Systems U.K., may include or so called open source software that is made available under an open source software license.

- Such open source software may be made available under licenses, certain of which may impose obligations on us in the event we were to distribute derivative works based on the open source software. Certain licenses impose obligations that could require us to make source code for a derivative work available to the public or license the derivative work under a particular type of open source software license, rather than the license terms we customarily use to protect our software.

- There is little or no legal precedent for interpreting the terms of certain of these open source licenses, including the terms addressing the extent to which software incorporating open source software may be considered a derivative work subject to these licenses. We believe we have complied with our obligations under the various applicable open source licenses. However, if the owner of any open source software were to successfully establish that we had not complied with the terms of an open source license for a particular product that includes such open source software, we may be forced to release the source code for that derivative work to the public or cease distribution of that work.

Disruptions from terrorist activities or military actions may have an adverse effect on our business.

The continued threat of terrorism within the U.S. and throughout the world and acts of war may cause significant disruption to commerce throughout the world. Our business and results of operations could be materially and adversely affected to the extent that such disruptions result in delays or cancellations of customer orders, delays in collecting cash, a general decrease in corporate spending on information technology, or our inability to effectively market, manufacture or ship our products. We are unable to predict whether war and the threat of terrorism or the responses thereto will result in any long-term commercial disruptions or if such activities or responses will have any long-term material adverse effect on our business, results of operations, financial condition or cash flows.

We face risks associated with doing business through local partners.

In some countries, because of local customs and regulations or for language reasons, we do business with our customers through local partners who resell our products and services, with or without value-added services. This can cause delays in closing contracts because of the increased complexity of having another party involved in negotiations. In addition, where the local partner provides additional software, hardware and/or services to the end-user customer, our products and services may only be a small portion of the total solution. As a result, payments made to us, as well as conditions surrounding acceptance, may be impacted by things that are out of our control. There may also be delays in getting payments made by the end-user customer through the reseller. We recently experienced delays in collecting from one of our resellers and this situation may arise again in the future, negatively impacting our cash flows.

We face special risks associated with doing business in highly corrupt environments.

Our international business operations include projects in developing countries and countries torn by conflict. To the extent we operate outside the U.S., we are subject to the Foreign Corrupt Practices Act (FCPA), which generally prohibits U.S. companies and their intermediaries from paying or offering anything of value to foreign government officials for the purpose of obtaining or keeping business, or otherwise receiving discretionary favorable treatment of any kind. We may also be subject to local anti-bribery laws and regulations. In particular, we may be held liable for actions taken by our local partners and agents, even though such parties are not always subject to our control. Any determination that we have violated the FCPA (whether directly or through acts of others, intentionally or through inadvertence) or other anti-bribery legislation could result in sanctions that could have a material adverse effect on our business. While we have procedures and controls in place to monitor compliance, situations outside of our control may arise that could potentially put us in violation of the FCPA or other anti-bribery legislation inadvertently and thus negatively impact our business.

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The trading price of our stock has been subject to wide fluctuations and may continue to experience volatility in the future.

The trading price of our common stock has been subject to wide fluctuations in response to quarterly variations in operating results, announcements of technological innovations or new products by us or our competitors, merger and acquisition activity, changes in financial estimates by securities analysts, the operating and stock price performance of other companies that investors may deem comparable to us, general stock market and economic considerations and other events or factors. This may continue in the future.

In addition, the stock market has experienced volatility that has particularly affected the market prices of stock of many technology companies and often has been unrelated to the operating performance of these companies. These broad market fluctuations may negatively impact the trading price of our common stock. As a result of the foregoing factors, our common stock may not trade at or higher than its current price.

Sales of large blocks of our stock may result in the reduction in the market price of our stock and make it more difficult to raise funds in the future.

If our stockholders sell substantial amounts of our common stock in the public market, the market price of our common stock could fall. The perception among investors that such sales will occur could also produce this effect. To the extent we have one or more stockholders who own a large percentage of our stock and those stockholders chose to liquidate their holdings, it may have a dramatic impact on the market price of our stock. These factors also could make it more difficult to raise funds through future offerings of common stock.

We are subject to certain rules and regulations of federal, state and financial market exchange entities, the compliance with which requires substantial amounts of management time and company resources. Any material weaknesses in our financial reporting or internal controls could adversely affect our business and the price of our common stock.

Because our common stock is publicly traded, we are subject to certain rules and regulations of federal, state and financial market exchange entities charged with the protection of investors and the oversight of companies whose securities are publicly traded. These entities, including the Public Company Accounting Oversight Board, the SEC and NASDAQ, have issued requirements and regulations and are currently developing additional regulations and requirements in response to laws enacted by Congress, most notably the Sarbanes-Oxley Act of 2002. Our compliance with certain of these rules, such as Section 404 of the Sarbanes-Oxley Act, is likely to require the commitment of significant managerial resources. In addition, establishment of effective internal controls is further complicated because we are now a global company with multiple locations and IT systems.

We continue to review our material internal control systems, processes and procedures for compliance with the requirements of Section 404. Such a review may result in the identification of material weaknesses in our internal controls. Disclosures of material weaknesses in our SEC reports could cause investors to lose confidence in our financial reporting and may negatively affect the price of our stock. Moreover, effective internal controls are necessary to produce reliable financial reports and to prevent fraud. If we have material weaknesses in our internal control over financial reporting it may negatively impact our business, results of operations and reputation.

We have never paid dividends and do not anticipate paying cash dividends on our common stock in the foreseeable future.

We have never paid cash dividends on our common stock. We currently intend to retain all future earnings, if any, for use in the operation of our business. In addition, unless we are specifically authorized, our revolving credit facility prohibits us from declaring dividends to our common stockholders, . Accordingly, we do not anticipate paying cash dividends on our common stock in the foreseeable future.

Certain provisions of our charter documents, employment arrangements, Delaware law and agreements with our most significant stockholder may discourage, delay or prevent an acquisition of us, even if an acquisition would be beneficial to our stockholders, and may prevent attempts by our stockholders to replace or remove our current management.

Provisions of our amended and restated certificate of incorporation and bylaws, as well as provisions of Delaware law, could make it more difficult for a third party to acquire us, even if doing so would benefit our stockholders. In addition, these provisions may frustrate or prevent any attempts by our stockholders to replace or remove our current management by making it more difficult for stockholders to replace members of our board of directors. Because our board of directors is responsible for appointing the members of our management team, these provisions could in turn affect any attempt by our stockholders to replace current members of our management team. These provisions include the following:

- our board of directors is authorized to issue up to 2,000,000 shares of preferred stock and to determine the price, rights, preferences and privileges of those shares without any further vote or action by our stockholders;

- our board of directors has adopted a stockholder rights agreement or poison pill designed to protect stockholders against unsolicited attempts to acquire the Company;

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- we have a staggered board with each member of the Board of Directors serving for three years; in any given year, only a portion of our Board of Directors have terms that expire;

- our stockholders cannot take action by written consent; and

- we have advance notice requirements for nominations for election to the Board of Directors or for proposing matters that can be acted upon at stockholder meetings.

In addition, we are subject to the anti-takeover provisions of Section 203 of Delaware General Corporation Law, which prohibit us from engaging in a business combination with an interested stockholder for a period of three years after the date of the transaction in which the person became an interested stockholder, unless the business combination is approved in the prescribed manner. The application of Section 203 and certain provisions of our restated certificate of incorporation, including a classified board of directors, may have the effect of delaying or preventing changes in control of our management, which could adversely affect the market price of our common stock by discouraging or preventing takeover attempts that might result in the payment of a premium price to our stockholders. Notwithstanding the foregoing, the three year moratorium imposed on business combinations by Section 203 will not apply to the Singer Group because, prior to the date on which the Singer Group became an interested stockholder, our board of directors approved the transaction which resulted in the Singer Group becoming an interested stockholder. However, in connection with its purchase of the Company s common stock resulting in the Singer Group becoming beneficial owners of more than 15% of the Company s stock, Karen Singer, as Trustee of the Singer Children s Management Trust, entered into a standstill agreement agreeing not to pursue, for 18 months, certain activities the purpose or effect of which may be to change or influence the control of the Company. The standstill agreement expired on September 30, 2009.

On December 10, 2009, the Board of Directors approved an amendment to the stockholder rights plan. The amendment increases, from 22.5% to 25.0%, the percentage of our common stock that a person or group of affiliated or associated persons may beneficially own without triggering the exercisability of the stockholder rights plan. All other provisions of the stockholder rights plan remain unchanged.

On December 11, 2009, we received a letter from the Singer Trust informing us that as the result of the appointment of John B. Spirtos to our Board of Directors and our approval of the amendment to the stockholder rights plan the Singer Trust will vote in favor of the reelection of Philip Neches and Richard Ramlall to our Board of Directors at our 2010 annual meeting of stockholders and the Singer Trust will not seek or otherwise support additional stockholder protections or reforms at the meeting.

Our executive officers have entered into management change in control agreements with us. Each agreement generally provides for acceleration on vesting of options, 50% upon a change in control (as defined in such agreements) if the executive remains employed with the new entity, or 100% in the event such executive s employment is terminated. The acceleration of vesting of options upon a change in control may be viewed as an anti-takeover measure and may have the effect of discouraging a merger proposal, tender offer or other attempt to gain control of us.

Our Amended and Restated Stock Option Plan provides for acceleration of vesting under certain circumstances. Upon certain changes in control of us, vesting on some options awarded to directors may be accelerated. In addition, the successor corporation may assume outstanding stock awards or substitute equivalent stock awards. If the successor corporation refuses to do so, such stock awards will become fully vested and exercisable for a period of 15 days after notice from us but the option will terminate if not exercised during that period. As noted above, the acceleration on vesting of options upon a change in control may be viewed as an anti-takeover measure.

General economic factors, domestically and internationally, that impact the communications industry, could negatively affect our revenue and operating results.

Unsettled financial markets, higher interest rates, inflation, levels of unemployment and other economic factors could adversely affect demand for our products and services as consumers and businesses may postpone spending in response to these conditions, negative financial news and declines in income and asset values. Challenging economic and market conditions may also result in:

- difficulty forecasting, budgeting and planning due to limited visibility into the spending plans of current or prospective customers;
- pricing pressure that may adversely affect revenue and gross margin;
- lengthening sales cycles and slowing deployments;
- increased competition for fewer projects and sales opportunities;
- increased risk of charges relating to write off of goodwill and other intangible assets;
- customer and reseller financial difficulty and greater difficulty collecting accounts receivable.

We are unable to predict how long the economic downturn will last and the magnitude of its effect on our business and results

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of operations. If these conditions continue, or further weaken, our business and results of operations could be materially adversely affected.

General risk statement

Based on all of the foregoing, we believe it is possible for future revenue, expenses and operating results to vary significantly from quarter to quarter and year to year. As a result, quarter-to-quarter and year-to-year comparisons of operating results are not necessarily meaningful or indicative of future performance. Furthermore, we believe that it is possible that in any given quarter or fiscal year our operating results could differ from the expectations of public market analysts or investors. In such event, or in the event that adverse conditions prevail, or are perceived to prevail, with respect to our business or generally, the market price of our common stock would likely decline.

ITEM 1B. UNRESOLVED STAFF COMMENTS

None.

ITEM 2. PROPERTIES

We lease office space at various locations which are shown below.

Location	Square Footage	Lease Expiration
Englewood, Colorado (Headquarters)	24,305	10/31/12
Bradenton, Florida	150	5/31/10
Bath, England	5,100	9/26/10
London, England	7,765	3/24/10
Windsor, England	118	12/31/10
Bangalore, India	12,300	8/18/12
Munich, Germany	732	Month-to-month
Kuala Lumpur, Malaysia	1,042	7/14/10

ITEM 3. LEGAL PROCEEDINGS

We are involved in various legal matters arising in the normal course of business. We do not believe that any such matters will have a material impact on our results of operations and financial position.

ITEM 4. RESERVED

PART II

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

Our common stock began trading publicly through the Nasdaq National Market under the symbol EVOL on May 12, 1998. Prior to that date, there was no public market for our common stock. We transferred from the Nasdaq National Market to the Nasdaq SmallCap Market (now known as the Nasdaq Capital Market) on August 28, 2002. The closing price of our common stock as reported on the Nasdaq Capital Market as of March 4, 2010 was $6.97 per share. The following table sets forth for the periods indicated the high and low closing sale quotations and may not be based on actual transactions for our common stock as reported on the Nasdaq Capital Market. The prices reported do not include retail mark-ups, markdowns or commissions.

	For the Years Ended December 31,			
	2009		2008	
	High	Low	High	Low
First Quarter	$ 2.88	$ 1.68	$ 5.24	$ 3.92
Second Quarter	$ 6.12	$ 2.36	$ 4.76	$ 3.92
Third Quarter	$ 7.04	$ 4.48	$ 4.50	$ 3.00
Fourth Quarter	$ 7.49	$ 5.85	$ 3.06	$ 1.56

As of March 4, 2010, there were approximately 33 holders of record of our common stock.

We have not declared or paid a cash dividend on our common stock. In addition, the terms of our revolving credit facility

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prohibits us from declaring dividends to our common stockholders without bank approval. We currently intend to retain future earnings, if any, to finance the growth and development of our business and, therefore, do not anticipate paying cash dividends in the foreseeable future.

The following graph compares the cumulative 5-year total return provided to shareholders on Evolving Systems, Inc. s common stock relative to the cumulative total returns of the NASDAQ Composite index, the DJ Wilshire MicroCap Software index, and the RDG Software Composite index. An investment of $100 (with reinvestment of all dividends) is assumed to have been made in our common stock and in each index on 12/31/2004 and its relative performance is tracked through 12/31/2009.

COMPARISON OF 5 YEAR CUMULATIVE TOTAL RETURN*

Among Evolving Systems, Inc., The NASDAQ Composite Index,

The RDG Software Composite Index And The DJ MicroCap Total Stock Market Software Index

*$100 invested on 12/31/04 in stock or index, including reinvestment of dividends.

Fiscal year ending December 31.

ITEM 6. SELECTED FINANCIAL DATA

The selected financial data set forth below for each of the years in the five-year period ended December 31, 2009, has been derived from our consolidated financial statements. The following selected financial data should be read in conjunction with Item 7 - Management s Discussion and Analysis of Financial Condition and Results of Operations , the consolidated financial statements and the notes thereto and other financial information included elsewhere in this Annual Report on Form 10-K.

	For the Years Ended December 31, (in thousands, except per share amounts)				
	2009	**2008**	**2007**	**2006**	**2005**
Revenue	$ 38,196	$ 37,821	$ 35,953	$ 33,833	$ 39,452
Costs of Revenue and Operating Expenses:					
Cost of revenue, excluding depreciation and amortization	13,185	13,919	14,260	13,036	16,070
Sales and marketing	7,696	8,500	8,557	8,962	9,643
General and administrative	5,737	5,676	5,862	5,138	6,818
Product development	3,530	3,607	2,376	3,072	1,921
Depreciation	632	847	899	1,169	1,443
Amortization	732	1,363	1,565	2,511	5,215
Impairment of goodwill and intangible assets (1)				16,516	
Restructuring and other expense			(4)	(21)	(49)
Income (loss) from operations	6,684	3,909	2,438	(16,550)	(1,609)
Interest and other, net	(1,096)	(420)	(1,284)	(1,837)	(1,692)
Income tax expense (benefit)	764	560	556	(1,604)	(396)
Net income (loss)	$ 4,824	$ 2,929	$ 598	$ (16,783)	$ (2,905)
Basic income (loss) per share	$ 0.49	$ 0.30	$ 0.06	$ (1.76)	$ (0.32)
Diluted income (loss) per share	$ 0.48	$ 0.30	$ 0.06	$ (1.76)	$ (0.32)
Weighted average basic shares outstanding	9,816	9,695	9,599	9,550	9,348
Weighted average diluted shares outstanding	10,145	9,878	9,788	9,550	9,348
Working capital (6)	$ 4,774	$ 1,802	$ 1,395	$ 803	$ 447
Total assets (2)	45,837	45,411	53,727	51,338	67,398
Long-term debt, net of current portion (7)	1,500	4,883	8,686	11,370	14,373
Series B convertible redeemable preferred stock (4) (5)			5,587	11,281	11,281
Stockholders equity (3)					