ASPEN TECHNOLOGY INC /DE/
Form 8-K
March 05, 2002

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 8-K

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

Date of report (date of earliest event reported): February 28, 2002

ASPEN TECHNOLOGY, INC.
(Exact name of registrant as specified in its charter)

DELAWARE	0-24786	04-2739697
(State or other jurisdiction of incorporation or organization)	(Commission File Number)	(I.R.S. Employer Identification No.)

Ten Canal Park, Cambridge, Massachusetts 02141
(Address of principal executive office and zip code)

Registrant's telephone number, including area code: (617) 949-1000

ITEM 5. OTHER EVENTS

A. ISSUANCE OF PREFERRED STOCK AND WARRANTS

On February 12, 2002, we filed a current report on Form 8-K to report, among other things, our sale of 30,000 shares of Series B-1 convertible preferred stock and warrants to purchase 365,854 shares of common stock on February 6, 2002 for an aggregate purchase price of $30.0 million. The earlier Form 8-K also indicated that we might issue and sell 20,000 shares of Series B-2 convertible preferred stock, together with warrants, on or about February 28, 2002.

On February 28, 2002, we issued and sold 20,000 shares of Series B-2 convertible preferred stock, together with warrants to purchase 283,460 shares of common stock, for a purchase price of $20.0 million. In the discussion below, we refer to these securities as Series B-2 preferred and additional warrants. The Series B-2 preferred and additional warrants were issued in a private placement to three institutional investors.

We intend to use our net proceeds from the private placement for working capital and other general corporate purposes, which may include acquisitions of, or investments in, one or more new technologies, products or businesses.

The terms of each share of Series B-2 preferred are substantially identical to those of a share of Series B-1 preferred, except for the initial conversion price, which is set forth in "Conversion - Conversion At Option of Holders." The terms of the additional warrants are substantially identical to those of each initial warrant issued in connection with the Series B-1 preferred, except for (a) the number of shares of common stock for which the additional warrants are exercisable and (b) the initial exercise price, both as described in "Additional Warrants."

The terms of the Series B-2 preferred are set forth in a certificate of designations that forms a part of our charter. In addition, some of our obligations to holders of Series B-2 preferred and additional warrants are contained in a securities purchase agreement and registration rights agreement entered into at the closing of the private placement of shares of Series B-1 convertible preferred stock and the warrants issued with those shares. THE FOLLOWING SUMMARIES OF PROVISIONS OF THE CERTIFICATE OF DESIGNATIONS, THE WARRANTS, THE SECURITIES PURCHASE AGREEMENT AND THE REGISTRATION RIGHTS AGREEMENT DO NOT PURPORT TO BE COMPLETE AND ARE SUBJECT TO, AND ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO, THE DETAILED PROVISIONS OF THOSE DOCUMENTS, COPIES OF WHICH ARE FILED AS EXHIBITS 4.2, 99.1, 99.2 AND 99.3 TO THIS CURRENT REPORT ON FORM 8-K.

SERIES B-2 PREFERRED

The certificate of designations established a newly designated series of 20,000 shares of Series B-2 convertible preferred stock, $.10 par value per share. All of the authorized shares of Series B-2 preferred were issued on February 28, 2002 in a private placement. Each share of Series B-2 preferred has an initial stated value of $1,000. The Series B-2 preferred accrues dividends at an annual rate of 4% that is payable quarterly, commencing June 30, 2002, in either cash or common stock, at our option (subject to our satisfaction of specified conditions set forth in the certificate of designations). The Series B-2 preferred is subject to mandatory redemption on February 7, 2009. Some of the additional redemption, conversion, repurchase and other provisions of the certificate of designations are summarized below.

CONVERSION

CONVERSION AT OPTION OF HOLDERS. Each share of Series B-2 preferred is

convertible into a number of shares of common stock equal to the stated value, which initially is $1,000, divided by a conversion price of $17.66, subject to antidilution and other adjustments summarized below and set forth in detail in the certificate of designations. As a result, the shares of Series B-2 preferred initially are convertible into an aggregate of approximately 1,132,503 shares of common stock. If we issue additional shares of common stock, or instruments convertible or exchangeable for common stock, at an effective net price less than the lesser of (a) $17.66 and (b) the then-applicable conversion price, the conversion price will be reduced to equal that effective net price. These adjustments do not apply, however, to the issuance of common stock or such instruments in specified firm commitment underwritten public offerings, strategic arrangements, mergers or acquisitions, and grants and purchases of securities pursuant to equity incentive plans. In

addition, the conversion price of the Series B-2 preferred is subject to equitable adjustment in the event of stock splits, stock dividends, distributions, subdivisions or combinations affecting common stock.

MANDATORY CONVERSION. In general, we may require holders to convert their shares of Series B-2 preferred into common stock if the closing price of the common stock has exceeded 135% of the conversion price for 25 consecutive trading days at any time after the effective date of a registration statement covering the common stock issuable upon conversion (see "Registration of Underlying Common Stock" below). We may be precluded, to the extent set forth in the certificate of designations, from exercising this right in circumstances where some of the 25 trading days occurred after we have publicly announced a change of control event.

REDEMPTION

REDEMPTION AT OPTION OF HOLDERS. From August 6, 2003 until February 6, 2004, holders may require that we redeem up to a total of 10,000 shares of Series B-2 preferred if the average closing price of the common stock for the 20 consecutive trading days immediately preceding August 6, 2003 or any date thereafter is below the then-applicable conversion price. Beginning on February 6, 2004, holders may require that we redeem any or all of their shares of Series B-2 preferred. Any such redemption must be made in cash or stock, at our option (subject to our satisfaction of specified conditions set forth in the certificate of designations), at a price equal to the stated value plus accrued but unpaid dividends. The Series B-2 preferred is not subject to optional redemption before August 6, 2003, except as described in the following paragraph.

REDEMPTION OR CONVERSION UPON CHANGE OF CONTROL. In the event of a specified "change of control," a holder may require that we redeem shares of Series B-2 preferred in cash at a price equal to 115% of the stated value, plus accrued but unpaid dividends. In such an event, a holder alternatively may elect to convert shares of Series B-2 preferred into the consideration that the holder would have received had the holder converted the shares of Series B-2 preferred into common stock immediately before the change of control event. Events constituting a change of control for these purposes are set forth in the certificate of designations.

MANDATORY REDEMPTION. We will be required to redeem all of the then-outstanding Series B-2 preferred on February 7, 2009 at a price equal to the stated value plus all accrued but unpaid dividends. The redemption price may

be paid in cash, common stock or both, at our option (subject to our satisfaction of specified conditions set forth in the certificate of designations).

REPURCHASE

Upon the occurrence of specified "triggering events," each holder may require that we repurchase all or any portion of the shares of Series B-2 preferred then held by such holder at a price per share equal to 115% of the greater of:

- the stated value of the shares, and
- the market value of the common stock issuable upon conversion of the shares,

together with all accrued and unpaid dividends. In addition, holders may require that we repurchase all or any portion of shares of common stock previously issued upon conversion of shares of Series B-2 preferred, at a price per share equal to 115% of the market value of the common stock.

The triggering events are set forth in the certificate of designations and in general relate to:

- bankruptcy-related events;
- changes of control;
- a suspension of trading of the common stock;
- our failure to have sufficient authorized shares of common stock reserved for issuance upon conversions of Series B-2 preferred or exercises of additional warrants or to deliver common stock certificates upon any such conversion or exercise;
- our failure to cause a registration statement to be filed, or to be declared and maintained effective, as required under the registration rights agreement;
- our failure to make a cash payment when due, or any other continuing default by us, under any of the documents delivered in connection with the placement.

If a triggering event (other than a bankruptcy-related event, a change of control or a payment default) occurs and is continuing after the expiration of any applicable cure period, we must pay holders an amount in cash equal to one percent for each of the first two months, and two percent for each subsequent month, of the aggregate purchase price originally paid for the Series B-2 preferred and additional warrants. These amounts will no longer accrue to a holder if the holder elects to have its Series B-2 preferred and additional warrants repurchased as described above.

FUTURE FINANCING RIGHTS

We have granted to the purchasers of the Series B-2 preferred and additional warrants rights to participate in specified sales of our equity or

equity-equivalent securities until February 28, 2004. Pursuant to these rights, the purchasers could elect to acquire fifty percent of any equity or equity-equivalent securities that we propose to offer, other than securities issued in connection with specified firm commitment underwritten public offerings, strategic arrangements, mergers or acquisitions, and grants and purchases of securities pursuant to equity incentive plans. The purchasers must either exercise their right in full by purchasing fifty percent of the securities we propose to offer, or choose not to exercise their right of first refusal.

ADDITIONAL WARRANTS

The additional warrants are exercisable through February 28, 2007 to purchase 283,460 shares of common stock at an initial exercise price of $20.64 per share. If we issue additional shares of common stock, or instruments convertible or exchangeable for common stock, at an effective net price less than the exercise price, the exercise price will be reduced to equal that effective net price. These adjustments do not apply, however, to the issuance of common stock or such instruments in specified firm commitment underwritten public offerings, strategic arrangements, mergers or acquisitions, and grants and purchases of securities pursuant to equity incentive plans. The warrants are subject to repurchase as described above under "Series B-2 Preferred--Repurchase."

REGISTRATION OF UNDERLYING COMMON STOCK

In connection with the transactions described above, we have agreed to register for resale under the Securities Act the of common stock issuable upon conversion of the Series B-2 preferred shares and exercisable under the additional warrants. Pursuant to the registration rights agreement with the purchasers (a copy of which is filed as Exhibit 99.2 to this current report on Form 8-K), we have agreed to register these shares on a shelf registration statement on Form S-3. We have agreed to have an initial

registration statement declared effective by May 30, 2002 and to use our best efforts to keep it continuously effective until the earlier of (a) February 28, 2004 and (b) all the shares covered by the registration statement have been sold. During such period, we may not suspend sales under the registration statement except in the limited circumstances set forth in the registration rights agreement.

B. TRANSACTION WITH EXXON MOBIL

We recently closed a software and services transaction with Exxon Mobil for our Aspen ProfitAdvantage solutions for the petroleum industry. As part of a multi-million dollar transaction, Exxon Mobil has licensed components of our manufacturing and supply chain solutions. A substantial portion of the revenue from the transaction is expected to be recognized in our third fiscal quarter ending March 31, 2002, and we expect that such revenue will have a material affect on our operating results for the third fiscal quarter.

ITEM 7. FINANCIAL STATEMENTS, PRO FORMA FINANCIAL INFORMATION AND EXHIBITS

(a) Financial Statements of Business Acquired

Not applicable.

(b) Pro Forma Financial Information

Not applicable.

(c) Exhibits

Exhibit Number	Description
4.1*	Amendment No. 2, dated as of February 6, 2002, to Rights Agreement dated as of March 12, 1998 between Aspen Technology, Inc. and American Stock Transfer & Trust Company, as Rights Agent (filed as Exhibit 4.5 to Amendment No. 3 to Form 8-A filed by Aspen Technology, Inc. on February 12, 2002 and incorporated herein by reference)
4.2*	Certificate of Designations of Series B-1 Convertible Preferred Stock and Series B-2 Convertible Preferred Stock
99.1*	Securities Purchase Agreement dated as of February 6, 2002 between Aspen Technology, Inc. and the Purchasers named therein
99.2*	Registration Rights Agreement dated as of February 6, 2002 between Aspen Technology, Inc. and the Purchasers named therein
99.3*	Form of Warrant of Aspen Technology, Inc.
99.4*	Press Release of Aspen Technology, Inc., dated as of February 7, 2002, with respect to the issuance of preferred stock and warrants

99.5*	Amendment Agreement No. 3, dated as of February 6, 2002, to Credit Agreement dated as of October 27, 2000 between Aspen Technology, Inc. and Fleet National Bank

* Filed as an exhibit to the current report on Form 8-K of Aspen Technology, Inc. filed with the SEC on February 12, 2002, and incorporated herein by reference.

SIGNATURE

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

ASPEN TECHNOLOGY, INC.

Date: March 4, 2002

By: /s/ Lisa W. Zappala

Lisa W. Zappala
Senior Vice President, Finance and
Chief Financial Officer

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