

BROADCASTER INC
Form SC 13D
September 14, 2006

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE 13D
Under the Securities Exchange Act of 1934
(Amendment No. __)¹

BROADCASTER, INC.

(Name of Issuer)

Common Stock, no par value

(Title of Class of Securities)

459862306

(CUSIP Number)

Nolan Quan

9201 Oakdale Avenue

Suite 201

Chatsworth, CA 91311

(323) 988-0754

With copies to:

Harris Cramer LLP

1555 Palm Beach Lakes Blvd., Suite 310

West Palm Beach, FL 33401

Attention: Michael D. Harris

(Name, Address and Telephone Number of Person Authorized to Receive Notices and Communications)

June 1, 2006

(Date of Event which Requires Filing of this Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this schedule because of §§240.13d-1(e), 240.13d-1(f) or 240.13d-1(g), check the following box. []

Note: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See §240.13d-7 for other parties to whom copies are to be sent.

¹ The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page.

The information required on the remainder of this cover page shall not be deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

1 NAME OF REPORTING PERSONS

I.R.S. IDENTIFICATION NO. OF ABOVE PERSONS (ENTITIES ONLY)

Nolan Quan

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP*

(a)

(b)

3 SEC USE ONLY

4 SOURCE OF FUNDS*

OO (See Item 3)

5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(d) OR 2(e)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

United States

7

SOLE VOTING POWER

**NUMBER OF
SHARES**

8

SHARED VOTING POWER

BENEFICIALLY

**OWNED BY
EACH**

9

38,946,725⁽¹⁾ ⁽²⁾
SOLE DISPOSITIVE POWER

REPORTING

PERSON		20,880,000 ⁽²⁾
WITH	10	SHARED DISPOSITIVE POWER

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

38,946,725

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES*

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

60.9%⁽³⁾

14 TYPE OF REPORTING PERSON*

IN -- Individual.

(1)

Nolan Quan is deemed by a Rule of the Securities and Exchange Commission to have shared voting power only with respect to the matters described in Item 4. The number of shares reported as being beneficially owned are calculated based on the number of shares held by stockholders of Broadcaster, Inc., including four limited liability companies, of which Mr. Quan is the managing member, that are parties to a voting agreement and additional shares held by parties to a second voting agreement. Although the four limited

liability companies are not parties to the second voting agreement, Mr. Michael Gardner, directly and indirectly, is a party to both voting agreements. Because Mr. Gardner is a party to both voting agreements, Mr. Quan is deemed to share beneficial ownership with Mr. Gardner and the other parties to the second voting agreement. The aggregate amount includes shares issuable upon exercise of 246,667 stock options which are exercisable within 60 days of the filing of this Schedule 13D. Mr. Quan disclaims beneficial ownership of 18,066,725 shares or all shares except those directly owned by the four limited liability companies, and this Schedule 13D shall not be construed as an admission that Mr. Quan is the beneficial owner of any securities covered by this Schedule 13D other than those owned directly by the four limited liability companies.

(2)

The shares for which Mr. Quan has sole dispositive power are owned as follows: Software People, LLC, a Wyoming limited liability company, owns 4,640,000 shares, Trans Global Media, LLC, a Wyoming limited liability company, owns 4,640,000 shares, AccessMedia Technologies, LLC, a Wyoming limited liability company, owns 2,320,000 shares and Broadcaster, LLC, a Nevada limited liability company, owns 9,280,000 shares. The shares owned directly and beneficially by Mr. Quan do not include shares representing Mr. Gardner's beneficial interest in a trust, which trust owns 3,089,188 shares of the issuer's common stock. Mr. Gardner does not have the power to vote or sell any shares owned by the trust.

(3)

Based upon an aggregate of 63,756,424 shares of common stock outstanding as of September 8, 2006 and shares issuable upon exercise of 246,667 stock options which are exercisable within 60 days of the filing of this Schedule 13D.

Item 1.**Security and Issuer.**

This Schedule 13D relates to the common stock, no par value (Common Stock), of Broadcaster, Inc., a California corporation, formerly known as International Microcomputer Software, Inc. (Broadcaster). The principal executive office of Broadcaster is located at 9201 Oakdale Avenue, Suite 200, Chatsworth, CA 91311. Mr. Nolan Quan and Mr. Michael Gardner (Gardner) previously filed a joint Schedule 13D. The joint Schedule 13D stated they may be deemed to constitute a group within the meaning of Rule 13d-5(b)(1) under the Securities Exchange Act of 1934 (the Act), although they denied that the joint filing is an admission that a group exists. The joint filing was based upon a misapprehension that a joint filing was legally required. This individual filing is made pursuant to Rule 13(d)-1(k)(2) under the Act.

Item 2.**Identity and Background.**

(a)

Nolan Quan

(b)

Business Address: 9201 Oakdale Avenue, Suite 201, Chatsworth, CA 91311

(c)

Occupation: Private Investor

(d)

No

(e)

No

(f)

United States

Item 3.

Source or Amount of Funds or Other Consideration.

As more fully described under Item 4 below, pursuant to an Amended and Restated Agreement and Plan of Merger dated March 24, 2006 (the Merger Agreement), on June 1, 2006 Broadcaster acquired AccessMedia Networks, Inc., a Delaware corporation (AccessMedia) in exchange for 29,000,000 shares of Common Stock (the Merger). The stockholders of AccessMedia were Software People, LLC, a Wyoming limited liability company (Software People), Trans Global Media, LLC, a Wyoming limited liability company (Trans Global), AccessMedia Technologies, LLC, a Wyoming limited liability company (AccessMedia Tech), and Broadcaster, LLC, a Nevada limited liability company (Software People, Trans Global, AccessMedia Tech and Broadcaster, LLC are collectively referred to in this Schedule 13D as the AccessMedia Entities) and Mr. Gardner. The AccessMedia Entities, for which Mr. Quan is the managing member of each limited liability company, received 20,880,000 of the shares of Common Stock issued by Broadcaster in the Merger, and Mr. Gardner received the balance of 8,120,000 shares. Broadcaster also issued Baytree Capital Associates, LLC (Baytree), a Delaware limited liability company controlled by Mr. Gardner, 2,450,000 shares of Common Stock for past and future consulting services including services in connection with the Merger.

Prior to the Merger, all AccessMedia stockholders, including the AccessMedia Entities and Mr. Gardner, entered into a voting agreement (the Company Voting Agreement) as described in Item 4 of this Schedule 13D with respect to all shares of Common Stock which would be beneficially owned by these stockholders after completion of the Merger. No shares of Common Stock were purchased by the AccessMedia Entities in connection with the Company Voting Agreement, and thus no funds were used for this purpose.

Prior to the Merger, two Broadcaster stockholders, including Baytree and its chief executive officer entered into a voting agreement (the Parent Voting Agreement) as described in Item 4 of this Schedule 13D with respect to the shares of Common Stock beneficially owned by these stockholders. Neither Mr. Quan nor the AccessMedia Entities were parties to the Parent Voting Agreement.

In connection with the Merger, AccessMedia stockholders placed 1,500,000 shares of Broadcaster common stock in escrow including 1,080,000 shares received by the AccessMedia Entities in connection with the Merger. The shares will be released every six months over an 18-month period, unless a claim is asserted by Broadcaster relating to a breach of representation under the Merger Agreement.

Item 4.**Purpose of the Transaction.**

(a)-(j)

Summary

In order to proceed with the negotiations related to the Merger, both Broadcaster and AccessMedia required that the respective Parent and Company Voting Agreements be executed in order to provide for membership on the Broadcaster Board of Directors following the closing of the Merger for a period of time not to exceed December 31, 2010. These Voting Agreements require the parties to elect Martin Wade, III (Wade), who is the chief executive officer of Broadcaster, and certain other persons to Broadcaster's Board of Directors. These Voting Agreements further provide that once AccessMedia achieves cumulative revenue of at least \$20 million beginning May 1, 2005, the parties to those Agreements must vote their shares to elect persons designated by Mr. Quan to be a majority of the Broadcaster Board of Directors.

All other voting rights remain with each party to the Parent and Company Voting Agreements who are free to vote as they choose on all other stockholder matters including approval of equity incentive plans, charter amendments, ratification of auditors and future extraordinary transactions including mergers and the sale of all or substantially all of Broadcaster's assets. Each party to the Parent and Company Voting Agreements has the sole right to sell their Broadcaster shares, subject to the Lock-Up Agreement referred to in Item 6 of this Schedule 13D. The restrictions of the Parent and Company Voting Agreements will lapse as to any shares sold. All parties other than Mr. Gardner and Baytree signed the Lock-Up Agreement.

Mr. Quan entered into the Company Voting Agreement on behalf of the AccessMedia Entities to facilitate the Merger. Described below under Company Voting Agreement and Parent Voting Agreement is a description of the relationship among the parties to the Company Voting Agreement and Parent Voting Agreement, but is not an affirmation by Mr. Quan of the existence of a group for purpose of Rule 13d-5(b)(1) under the Act. Pursuant to Rule 13d-4 under the Act, Mr. Quan disclaims beneficial ownership of 18,066,725 shares of the shares of Common Stock held by the other parties to the Company and Parent Voting Agreements.

The Merger Agreement

Broadcaster completed its acquisition of AccessMedia on June 1, 2006. As a result, the AccessMedia stockholders consisting of the AccessMedia Entities and Mr. Gardner were issued a total of 29,000,000 shares of Common Stock with the potential to earn an additional 35,000,000 shares of Common Stock as additional Merger consideration based upon future revenue of AccessMedia. Mr. Quan is the managing member of each of the AccessMedia Entities.

The above is a summary of the Merger and the Merger Agreement. Investors should review the entire Merger Agreement, a copy of which is filed as Exhibit 1 to this Schedule 13D and incorporated in this Schedule 13D by reference.

Company Voting Agreement

The AccessMedia Entities and Mr. Gardner entered into the Company Voting Agreement with Broadcaster, dated as of December 16, 2005, under which these parties agreed to vote their shares of Common Stock of Broadcaster following the Merger in favor of electing Mr. Wade and other nominees of Broadcaster to its Board of Directors. However, if AccessMedia's cumulative revenue is at least \$20 million beginning May 1, 2005, then Broadcaster must nominate a majority of directors selected by Mr. Quan. This right to nominate a majority terminates on the earlier of (i) December 31, 2010 or (ii) the date on which the former stockholders of AccessMedia beneficially own a majority of the outstanding shares of Common Stock of Broadcaster. The Company Voting Agreement also required the AccessMedia stockholders to vote in favor of the Merger.

The above is a summary of the Company Voting Agreement. Investors should review the entire Company Voting Agreement, a copy of which is filed as Exhibit 2 to this Schedule 13D and incorporated in this Schedule 13D by reference.

Parent Voting Agreement

Baytree, Digital Creative Development Corp. (Digital), a 5% stockholder of Broadcaster, and Mr. Wade, an option holder, entered into the Parent Voting Agreement with AccessMedia, dated as of December 16, 2005, under which each party has agreed to vote their shares of Common Stock in favor of electing Mr. Wade and one person nominated by the Stockholders Representative (as defined in the Merger Agreement) to become a member of the Board of Directors of Broadcaster following the closing date of the Merger. However, if AccessMedia has cumulative revenue of at least \$20 million beginning May 1, 2005, these stockholders shall vote their shares to elect persons designated by Mr. Quan as a majority of the Broadcaster Board of Directors. The Parent Voting Agreement also required the three parties to vote in favor of the Merger. The Parent Voting Agreement terminates upon the earlier of (i) December 31, 2010 or (ii) the date on which the former stockholders of AccessMedia beneficially own a majority of the outstanding shares of Common Stock.

The above is a summary of the Parent Voting Agreement. Investors should review the entire Parent Voting Agreement, a copy of which is filed as Exhibit 3 to this Schedule 13D and incorporated in this Schedule 13D by reference.

The Parent Voting Agreement required the three parties to appoint the Stockholders Representative as their proxy to vote their shares of Common Stock in the manner provided by the Parent Voting Agreement. Due to the ministerial nature of the proxy, the lack of any discretion the Stockholders Representative has in voting, and the fact that Messrs. Quan and Gardner, on behalf of the AccessMedia Entities, may remove and replace the Stockholders Representative at any time, he is not included as a member of any group that might have been created by the Parent Voting Agreement described in this Item 4.

Item 5.

Interest in Securities of the Issuer.

(a), (b)

The AccessMedia Entities own 20,880,000 shares of Broadcaster Common Stock, and Mr. Quan as the managing member of each limited liability company, is deemed to be the beneficial owner of those shares.

Because Mr. Gardner, directly and through Baytree, is a party to the Parent and Company Voting Agreements described in Item 4, Mr. Quan is deemed by Rule 13d-5(b)(1) of the Act to be the beneficial owner of all shares of Broadcaster Common Stock owned by each party to the Parent and Company Voting Agreements, although he disclaims such beneficial ownership except as to the shares owned by the AccessMedia Entities. As a result, he may be deemed to have shared voting power over:

- the 20,880,000 shares of Common Stock owned by the AccessMedia Entities;
- the 10,694,300 shares of Common Stock owned by Mr. Gardner and Baytree;
- the 7,125,758 shares of Common Stock owned by Digital; and
- the 246,667 shares beneficially owned by Mr. Wade, which are issuable when he exercises vested options.

As such, Mr. Quan may be deemed to beneficially own 38,946,725 shares of Broadcaster representing approximately 60.9% of the outstanding shares of Common Stock. Although Mr. Quan may be deemed to have shared voting power over all 38,946,725 shares, he disclaims beneficial ownership of the 18,066,775 shares of Common Stock beneficially owned by the parties other than the AccessMedia Entities listed above.

The other parties which share voting power are believed by Mr. Quan to beneficially own the following shares of Broadcaster common stock:

Name	Combined Beneficial Ownership	Percentage of Class Beneficially Owned	Shared Voting Power⁽¹⁾	Sole Power to Sell⁽¹⁾
Michael Gardner	38,946,725	60.9%	38,946,725	10,694,300
Digital	38,946,725	60.9%	38,946,725	7,125,758
Martin Wade, III	38,946,725	60.9%	38,946,725	246,667 ⁽²⁾

(1)

None of the stockholders have sole voting power or shared power to sell any of the shares beneficially owned, except for the voting power described in Item 4.

(2)

Comprised entirely of stock options which are exercisable within 60 days of the filing of this Schedule 13D.

All of the parties which share voting power may vote their shares as they see fit on all matters which require a stockholder vote, except for the election of directors as required by the Parent and Company Voting Agreements.

Mr. Quan, the beneficial owner of the Broadcaster Common Stock owned by the AccessMedia Entities, has his business address at 9201 Oakdale Avenue, Suite 201, Chatsworth, CA 91311. Mr. Quan is a private equity investor and is principally involved in managing his investments including those in Broadcaster and Alchemy Communications, Inc., a California corporation.

The address of the principal business office of Software People and AccessMedia Tech is 123 West First Street, #675, Casper, WY 82601. The address of the principal business office of Trans Global is 2424 Pioneer Avenue, #405, Cheyenne, WY 82001. The address of the principal business office of Broadcaster, LLC is 3540 West Sahara Avenue, #763, Las Vegas, NV 89102, and Broadcaster, LLC.

Edgar Filing: BROADCASTER INC - Form SC 13D

The address of the principal business office of Mr. Gardner and Baytree is 40 Wall Street, 58th Floor, New York, NY 10005. Mr. Gardner's principal business is as managing member of Baytree, and Baytree's principal business is investing in securities.

The address of the principal business office of Digital, a Utah corporation, is 200 East 82nd Street, New York, NY 10028. The principal business of Digital is investing in software and high technology companies.

Mr. Wade has his business address at 9201 Oakdale Avenue, Suite 200, Chatsworth, CA 91311. Mr. Wade's principal occupation is chief executive officer of Broadcaster. Mr. Wade is a citizen of the United States.

During the past five years Mr. Quan has not and, to the best of his knowledge, none of the other individuals or entities referred to in this Item 5 have been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors).

During the past five years Mr. Quan has not and, to the best of his knowledge, none of the other individuals or entities referred to in this Item 5, was a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and as a result of such proceeding was or is subject to a judgment, decree or final order enjoining future violations of, or prohibiting or mandating activity subject to, federal or state securities laws or finding any violation with respect to such laws.

(c)

Except as described in this Schedule 13D, Mr. Quan and the AccessMedia Entities did not engage in any transactions in shares of Common Stock during the past 60 days, nor, to the best of Mr. Quan's knowledge, did Mr. Gardner, Mr. Wade or Digital.

(d)

Not applicable.

(e)

Not applicable.

Item 6.

Contracts, Arrangements, Understandings or Relationships with Respect to Securities of the Issuer.

Except for the Parent and Company Voting Agreements and as set forth below, to the best knowledge of Mr. Quan, there are no contracts, arrangements, understandings or relationships (legal or otherwise) among Mr. Quan, the AccessMedia Entities, Mr. Gardner, Baytree, Mr. Wade and Digital and between such person and any person with respect to any securities of Broadcaster, including but not limited to transfer or voting of any of the securities, finder s fees, joint ventures, loan or option arrangements, puts or calls, guarantees of profits, division of profits or losses, or the giving or withholding of proxies.

Lock-Up Agreement

In connection with the Merger Agreement, the AccessMedia Entities, Digital and Mr. Wade entered into individual lock-up agreements (collectively, the Lock-Up Agreement), pursuant to which such stockholders agreed not to sell, offer, pledge, contract to sell or any similar transaction, any Common Stock owned by such stockholders for a period of twelve (12) months following the closing of the Merger. As stated earlier in this Schedule 13D, once sold the voting restrictions imposed by the Lock-Up Agreement lapse as to the shares sold.

Each stockholder who signed the Lock-Up Agreement may sell up to two percent (2%) of the Broadcaster Common Stock owned by such stockholder in each sixty (60) day period during the twelve (12) month period. In addition, the number of shares of Common Stock that may be sold during any sixty (60) day period may be increased above two percent (2%) at the discretion of Baytree if (i) Baytree determines in good faith that such sales will not have an adverse effect on the market for Common Stock, and (ii) such increase applies on a pro rata basis to each stockholder who has executed the Lock-Up Agreement.

The foregoing summary of the Lock-Up Agreement is qualified by reference to the form of Lock-Up Agreement included as Exhibit 4 to Schedule 13D and incorporated herein in its entirety by reference.

Item 7.

Material to be filed as Exhibits.

The following documents are filed as exhibits:

1.

Amended and Restated Agreement and Plan of Merger⁽¹⁾

2.

Form of Company Voting Agreement⁽²⁾

3.

Form of Parent Voting Agreement⁽³⁾

4.

Form of Lock-Up Agreement

(1)

Incorporated by reference to Exhibit 2.1 to Broadcaster's current report on Form 8-K filed with the Securities and Exchange Commission on March 29, 2006.

(2)

Incorporated by reference to Exhibit B to Exhibit 2.1 to the Broadcaster's current report on Form 8-K filed with the Securities and Exchange Commission on December 19, 2005. The actual title of this Agreement is Company Voting Agreement.

(3)

Edgar Filing: BROADCASTER INC - Form SC 13D

Incorporated by reference to Exhibit 10.1 to Broadcaster's current report on Form 8-K filed with the Securities and Exchange Commission on May 5, 2006. The actual title of this Agreement is Parent Voting Agreement.

SIGNATURE

After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Date: September 14, 2006

By: /s/ NOLAN QUAN
Nolan Quan

Attention. Intentional misstatements or omissions of fact constitute federal criminal violations (see 18 U.S.C. 1001).