AMERICAN CAMPUS COMMUNITIES INC
Form 10-Q
August 04, 2010

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 10-Q

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

For the quarterly period ended June 30, 2010

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 001-32265

AMERICAN CAMPUS COMMUNITIES, INC.
(Exact name of registrant as specified in its charter)

Maryland (State or Other Jurisdiction of Incorporation or Organization)	76-0753089 (IRS Employer Identification No.)
805 Las Cimas Parkway, Suite 400 Austin, TX (Address of Principal Executive Offices)	78746 (Zip Code)

(512) 732-1000
Registrant's telephone number, including area code

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 o

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 x No o

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer", "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer x		Accelerated Filer o
Non-accelerated	(Do not check if a smaller reporting company)	Smaller reporting company o

filer o

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

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.

There were 52,787,389 shares of American Campus Communities, Inc.'s common stock with a par value of $0.01 per share outstanding as of the close of business on July 30, 2010.

FORM 10-Q
FOR THE QUARTER ENDED JUNE 30, 2010

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AMERICAN CAMPUS COMMUNITIES, INC. AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEETS
(in thousands, except share and per share data)

	June 30, 2010 (unaudited)	December 31, 2009
Assets		
Investments in real estate:		
Wholly-owned properties, net	$ 1,977,475	$ 2,014,970
On-campus participating properties, net	63,755	65,690
Investments in real estate, net	2,041,230	2,080,660
Cash and cash equivalents	20,932	66,093
Restricted cash	31,615	29,899
Student contracts receivable, net	4,249	5,381
Other assets	52,874	52,948
Total assets	$ 2,150,900	$ 2,234,981
Liabilities and equity		
Liabilities:		
Secured mortgage, construction and bond debt	$ 947,041	$ 1,029,455
Senior secured term loan	100,000	100,000
Secured agency facility	94,000	94,000
Secured revolving credit facility	30,100	-
Accounts payable and accrued expenses	26,963	26,543
Other liabilities	44,380	45,487
Total liabilities	1,242,484	1,295,485
Redeemable noncontrolling interests	34,654	36,722
Equity:		
American Campus Communities, Inc. stockholders' equity:		
Common stock, $.01 par value, 800,000,000 shares authorized, 52,599,622 and 52,203,893 shares issued and outstanding at June 30, 2010 and December 31, 2009, respectively	524	521
Additional paid in capital	1,101,686	1,092,030
Accumulated earnings and dividends	(226,266)	(189,165)
Accumulated other comprehensive loss	(6,059)	(4,356)
Total American Campus Communities, Inc. stockholders' equity	869,885	899,030
Noncontrolling interests	3,877	3,744
Total equity	873,762	902,774
Total liabilities and equity	$ 2,150,900	$ 2,234,981

See accompanying notes to consolidated financial statements.

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AMERICAN CAMPUS COMMUNITIES, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF OPERATIONS
(unaudited, in thousands, except share and per share data)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2010	2009	2010	2009
Revenues:				
Wholly-owned properties	$68,549	$64,153	$139,741	$129,488
On-campus participating properties	4,142	3,922	11,453	10,796
Third party development services	1,628	886	2,202	1,938
Third party management services	2,121	2,105	4,335	4,347
Resident services	242	205	494	445
Total revenues	76,682	71,271	158,225	147,014
Operating expenses:				
Wholly-owned properties	32,288	31,794	63,764	62,284
On-campus participating properties	2,620	2,783	5,019	4,813
Third party development and management services	2,796	2,810	5,895	5,787
General and administrative	2,616	2,829	5,369	5,577
Depreciation and amortization	17,795	19,591	35,283	38,923
Ground/facility leases	753	452	1,324	1,004
Total operating expenses	58,868	60,259	116,654	118,388
Operating income	17,814	11,012	41,571	28,626
Nonoperating income and (expenses):				
Interest income	16	40	33	79
Interest expense	(14,961)	(14,817)	(30,262)	(30,081)
Amortization of deferred financing costs	(1,015)	(769)	(2,057)	(1,559)
Loss from unconsolidated joint ventures	(711)	(483)	(2,125)	(1,037)
Other nonoperating income	-	402	-	402
Total nonoperating expenses	(16,671)	(15,627)	(34,411)	(32,196)
Income (loss) before income taxes and discontinued operations	1,143	(4,615)	7,160	(3,570)
Income tax provision	(142)	(135)	(285)	(270)
Income (loss) from continuing operations	1,001	(4,750)	6,875	(3,840)
Discontinued operations:				
Loss attributable to discontinued operations	(5)	(547)	(4,288)	(948)
Loss from disposition of real estate	(59)	-	(3,705)	-
Total discontinued operations	(64)	(547)	(7,993)	(948)
Net income (loss)	937	(5,297)	(1,118)	(4,788)
Net income attributable to noncontrolling interests	(169)	(13)	(303)	(245)
Net income (loss) attributable to common shareholders	$768	$(5,310)	$(1,421)	$(5,033)

Net income (loss) per share attributable to common shareholders- basic and diluted:				
Income (loss) from continuing operations per share	$0.01	$(0.10)	$0.12	$(0.10)
Net income (loss) per share	$0.01	$(0.11)	$(0.03)	$(0.12)
Weighted-average common shares outstanding:				
Basic	52,335,642	47,897,196	52,285,919	45,152,665
Diluted	52,853,003	47,897,196	52,829,613	45,152,665
Distributions declared per common share	$0.3375	$0.3375	$0.675	$0.675

See accompanying notes to consolidated financial statements.

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AMERICAN CAMPUS COMMUNITIES, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENT OF CHANGES IN EQUITY
(unaudited, in thousands, except share data)

	Common Shares	Par Value of Common Shares	Additional Paid in Capital	Accumulated Earnings and Dividends	Accumulated Other Comprehensive Loss	Noncontrolling Interests	Total
Equity, December 31, 2009	52,203,893	$ 521	$ 1,092,030	$ (189,165)	$ (4,356)	$ 3,744	$ 902,774
Net proceeds from sale of common stock	268,200	3	7,514	-	-	-	7,517
Amortization of restricted stock awards	-	-	1,815	-	-	-	1,815
Vesting of restricted stock awards	90,525	-	(917)	-	-	-	(917)
Distributions to common and restricted stockholders	-	-	-	(35,680)	-	-	(35,680)
Distributions to joint venture partners	-	-	-	-	-	(108)	(108)
Conversion of common units to common stock	37,004	-	919	-	-	-	919
Reclassification of noncontrolling interests	-	-	325	-	-	-	325
Comprehensive loss:							
Change in fair value of interest rate swaps	-	-	-	-	(1,703)	-	(1,703)
Net loss	-	-	-	(1,421)	-	241	(1,180)
Total comprehensive loss	-	-	-	-	-	-	(2,883)
Equity, June 30, 2010	52,599,622	$ 524	$ 1,101,686	$ (226,266)	$ (6,059)	$ 3,877	$ 873,762

See accompanying notes to consolidated financial statements.

AMERICAN CAMPUS COMMUNITIES, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CASH FLOWS
(unaudited, in thousands)

	Six Months Ended June 30, 2010	2009
Operating activities		
Net loss attributable to common shareholders	$(1,421)	$(5,033)
Adjustments to reconcile net loss attributable to common shareholders to net cash provided by operating activities:		
Income attributable to noncontrolling interests	303	245
Loss from disposition of real estate	3,705	-
Provision for asset impairment	4,036	-
Depreciation and amortization	35,617	40,502
Amortization of deferred financing costs and debt premiums/discounts	2,120	1,440
Share-based compensation	1,948	1,358
Loss from unconsolidated joint ventures	2,125	1,037
Income tax provision	285	270
Changes in operating assets and liabilities:		
Restricted cash	(2,118)	999
Student contracts receivable, net	1,262	294
Other assets	(3,261)	(4,763)
Accounts payable and accrued expenses	(772)	(6,857)
Other liabilities	(2,958)	(5,105)
Distributions received from unconsolidated joint ventures	180	-
Net cash provided by operating activities	41,051	24,387
Investing activities		
Net proceeds from disposition of real estate	2,115	-
Cash paid for property acquisition	(9,618)	-
Cash paid for land acquisitions	(7,595)	(2,637)
Investments in wholly-owned properties	(15,023)	(68,356)
Investments in on-campus participating properties	(224)	(181)
Purchase of corporate furniture, fixtures and equipment	(436)	(1,181)
Net cash used in investing activities	(30,781)	(72,355)
Financing activities		
Proceeds from sale of common stock	7,663	207,719
Offering costs	(130)	(9,369)
Secured revolving credit facility, net	30,100	(14,700)
Proceeds from construction loans	-	5,334
Pay-off of mortgage loans	(51,892)	(72,829)
Principal payments on debt	(4,314)	(4,850)
Change in construction accounts payable	-	(1,284)
Debt issuance and assumption costs	(31)	(15)
Distributions to common and restricted stockholders	(35,833)	(29,001)
Distributions to noncontrolling partners	(994)	(1,454)
Net cash (used in) provided by financing activities	(55,431)	79,551
Net change in cash and cash equivalents	(45,161)	31,583
Cash and cash equivalents at beginning of period	66,093	25,600

Cash and cash equivalents at end of period	$20,932	$57,183
Supplemental disclosure of non-cash investing and financing activities		
Issuance of Common Units in connection with land acquisition	$-	$(2,005)
Change in fair value of derivative instruments, net	$(1,703)	$1,380
Supplemental disclosure of cash flow information		
Interest paid	$29,204	$31,783

See accompanying notes to consolidated financial statements.

AMERICAN CAMPUS COMMUNITIES, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

1. Organization and Description of Business

American Campus Communities, Inc. (the "Company") is a real estate investment trust ("REIT") that was incorporated on March 9, 2004 and commenced operations effective with the completion of an initial public offering ("IPO") on August 17, 2004. Through the Company's controlling interest in American Campus Communities Operating Partnership LP (the "Operating Partnership"), the Company is one of the largest owners, managers and developers of high quality student housing properties in the United States in terms of beds owned and under management. The Company is a fully integrated, self-managed and self-administered equity REIT with expertise in the acquisition, design, financing, development, construction management, leasing and management of student housing properties.

As of June 30, 2010, the Company's property portfolio contained 86 student housing properties with approximately 53,300 beds in approximately 17,300 apartment units. The Company's property portfolio consisted of 79 owned off-campus properties that are in close proximity to colleges and universities, three American Campus Equity ("ACE®") properties operated under ground/facility leases with two university systems and four on-campus participating properties operated under ground/facility leases with the related university systems. As of June 30, 2010, the Company also owned a noncontrolling interest in two joint ventures that owned an aggregate of 18 student housing properties with approximately 9,800 beds in approximately 2,900 units. The Company's communities contain modern housing units and are supported by a resident assistant system and other student-oriented programming, with many offering resort-style amenities.

Through the Company's taxable REIT subsidiaries ("TRS"), it also provides construction management and development services, primarily for student housing properties owned by colleges and universities, charitable foundations, and others. As of June 30, 2010, the Company provided third-party management and leasing services for 33 properties (five of which the Company served as the third-party developer and construction manager) that represented approximately 24,700 beds in approximately 9,400 units. Third-party management and leasing services are typically provided pursuant to multi-year management contracts that have initial terms that range from one to five years. As of June 30, 2010, the Company's total owned, joint venture and third-party managed portfolio included 137 properties with approximately 87,800 beds in approximately 29,600 units.

2. Summary of Significant Accounting Policies

Basis of Presentation

The accompanying consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States ("GAAP") and include the financial position, results of operations and cash flows of the Company, the Operating Partnership and subsidiaries of the Operating Partnership, including joint ventures in which the Company has a controlling interest. Third-party equity interests in the Operating Partnership and consolidated joint ventures are reflected as noncontrolling interests in the consolidated financial statements. The Company also has a noncontrolling interest in three unconsolidated joint ventures, which are accounted for under the equity method. All intercompany amounts have been eliminated. All dollar amounts in the tables herein, except share and per share amounts, are stated in thousands unless otherwise indicated. Certain prior period amounts have been reclassified to conform to the current period presentation.

Recent Accounting Pronouncements

On January 1, 2010 the Company adopted new accounting guidance related to variable interest entities ("VIEs"). These new accounting pronouncements amend the existing accounting guidance to: (i) require an enterprise to perform an analysis to determine whether the enterprise's variable interest or interests give it a controlling financial interest in a VIE, identifying the primary beneficiary of the VIE, (ii) require an ongoing reassessment of whether an enterprise is the primary beneficiary of a VIE, rather than only when specific events occur, (iii) eliminate the quantitative approach previously required for determining the primary beneficiary of a VIE, (iv) amend certain guidance for determining whether an entity is a VIE, (v) add an additional reconsideration event when changes in facts and circumstances pertinent to a VIE occur, (vi) eliminate the exception for troubled debt restructuring regarding VIE reconsideration, and (vii) require advanced disclosures that will provide users of financial statements with more transparent information about an enterprise's involvement in a VIE. Upon the adoption of this new accounting guidance, management reevaluated its potential VIEs and concluded that there is no change from its initial assessment regarding which entities are consolidated by the Company and those that are accounted for under the equity method of accounting.

AMERICAN CAMPUS COMMUNITIES, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Interim Financial Statements

The accompanying interim financial statements are unaudited, but have been prepared in accordance with GAAP for interim financial information and in conjunction with the rules and regulations of the Securities and Exchange Commission. Accordingly, they do not include all disclosures required by GAAP for complete financial statements. In the opinion of management, all adjustments (consisting solely of normal recurring matters) necessary for a fair presentation of the financial statements for these interim periods have been included. Because of the seasonal nature of the Company's operations, the results of operations and cash flows for any interim period are not necessarily indicative of results for other interim periods or for the full year. These financial statements should be read in conjunction with the financial statements and the notes thereto included in the Company's Annual Report on Form 10-K for the year ended December 31, 2009.

Use of Estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosures of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Investments in Real Estate

Investments in real estate are recorded at historical cost. Major improvements that extend the life of an asset are capitalized and depreciated over the remaining useful life of the asset. The cost of ordinary repairs and maintenance are charged to expense when incurred. Depreciation and amortization are recorded on a straight-line basis over the estimated useful lives of the assets as follows:

Buildings and improvements	7-40 years
Leasehold interest - on-campus participating properties	25-34 years (shorter of useful life or respective lease term)
Furniture, fixtures and equipment	3-7 years

Project costs directly associated with the development and construction of an owned real estate project, which include interest, property taxes, and amortization of deferred finance costs, are capitalized as construction in progress. Upon completion of the project, costs are transferred into the applicable asset category and depreciation commences. Interest totaling approximately $0.2 million and $1.2 million was capitalized during the three months ended June 30, 2010 and 2009, respectively, and $0.2 million and $2.2 million was capitalized during the six months ended June 30, 2010 and 2009, respectively. There was no amortization of deferred financing costs capitalized as construction in progress during the three or six months ended June 30, 2010 and 2009.

Management assesses whether there has been an impairment in the value of the Company's investments in real estate whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Impairment is recognized when estimated expected future undiscounted cash flows are less than the carrying value of the property. The estimation of expected future net cash flows is inherently uncertain and relies on assumptions regarding current and future economics and market conditions. If such conditions change, then an adjustment to the carrying value of the Company's long-lived assets could occur in the future period in which the conditions change. To the extent that a property is impaired, the excess of the carrying amount of the property over its estimated fair value is charged to earnings. The Company believes that there were no impairments of the carrying values of its investments in real estate as of June 30, 2010.

The Company allocates the purchase price of acquired properties to net tangible and identified intangible assets based on relative fair values. Fair value estimates are based on information obtained from a number of sources, including independent appraisals that may be obtained in connection with the acquisition or financing of the respective property and other market data. Information obtained about each property as a result of due diligence, marketing and leasing activities is also considered. The value of in-place leases is based on the difference between (i) the property valued with existing in-place leases adjusted to market rental rates and (ii) the property valued "as-if" vacant. As lease terms are typically one year or less, rates on in-place leases generally approximate market rental rates. Factors considered in the valuation of in-place leases include an estimate of the carrying costs during the expected lease-up period considering current market conditions, nature of the tenancy, and costs to execute similar leases. Carrying costs include estimates of lost rentals at market rates during the expected lease-up period, as well as marketing and other operating expenses. The value of in-place leases is amortized over the remaining initial term of the respective leases, generally less than one year. The purchase price of property acquisitions is not expected to be allocated to tenant relationships, considering the terms of the leases and the expected levels of renewals.

AMERICAN CAMPUS COMMUNITIES, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Long-Lived Assets–Held for Sale

Long-lived assets to be disposed of are classified as held for sale in the period in which all of the following criteria are met:

a. Management, having the authority to approve the action, commits to a plan to sell the asset.

b. The asset is available for immediate sale in its present condition subject only to terms that are usual and customary for sales of such assets.

c. An active program to locate a buyer and other actions required to complete the plan to sell the asset have been initiated.

d. The sale of the asset is probable, and transfer of the asset is expected to qualify for recognition as a completed sale, within one year.

e. The asset is being actively marketed for sale at a price that is reasonable in relation to its current fair value.

f. Actions required to complete the plan indicate that it is unlikely that significant changes to the plan will be made or that the plan will be withdrawn.

Concurrent with this classification, the asset is recorded at the lower of cost or fair value, and depreciation ceases.

Owned On-Campus Properties

Under its ACE program, the Company as lessee has entered into three ground/facility lease agreements with two university systems to finance, construct, and manage three student housing properties. One property was under construction as of June 30, 2010 and is scheduled to open for occupancy in August 2011. The terms of the leases, including extension options, range from 65 to 85 years, and the lessor has title to the land and any improvements placed thereon. The Company's involvement in construction requires the lessor's post construction ownership of the improvements to be treated as a sale with a subsequent leaseback by the Company. However, these sale-leaseback transactions do not qualify for sale-leaseback accounting because of the Company's continuing involvement in the constructed assets. As a result of the Company's continuing involvement, these leases are accounted for by the deposit method, in which the assets subject to the ground/facility leases are reflected at historical cost, less amortization, and the financing obligations are reflected at the terms of the underlying financing.

On-Campus Participating Properties

The Company entered into ground and facility leases with two university systems and colleges to finance, construct, and manage four on-campus student housing facilities. Under the terms of the leases, the lessor has title to the land and any improvements placed thereon. Each lease terminates upon final repayment of the construction related financing, the amortization period of which is contractually stipulated. The Company's involvement in construction requires the lessor's post construction ownership of the improvements to be treated as a sale with a subsequent leaseback by the Company. The sale-leaseback transaction has been accounted for as a financing, and as a result, any fee earned during construction is deferred and recognized over the term of the lease. The resulting financing obligation is reflected at the terms of the underlying financing, i.e., interest is accrued at the contractual rates and principal reduces in accordance with the contractual principal repayment schedules.

The Company reflects these assets subject to ground/facility leases at historical cost, less amortization. Costs are amortized, and deferred fee revenue in excess of the cost of providing the service are recognized, over the lease term.

AMERICAN CAMPUS COMMUNITIES, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Intangible Assets

In connection with a property acquisition completed in March 2010 and the acquisition of GMH Communities Trust ("GMH") in June 2008, the Company capitalized approximately $0.2 million and $18.8 million, respectively, related to management's estimate of the fair value of the in-place leases assumed. These intangible assets are amortized on a straight-line basis over the average remaining term of the underlying leases. Amortization expense was approximately $0.1 million and $4.1 million for the three months ended June 30, 2010 and 2009, respectively, and approximately $0.2 million and $8.2 million for the six months ended June 30, 2010 and 2009, respectively. The Company also capitalized $1.5 million related to management's estimate of the fair value of third-party management contracts acquired from GMH. These intangible assets are amortized on a straight-line basis over a period of three years. Amortization expense related to these acquired management contracts was approximately $0.1 million for both three month periods ended June 30, 2010 and 2009, respectively, and $0.2 million for both six month periods ended June 30, 2010 and 2009, respectively. The amortization of intangible assets is included in depreciation and amortization expense in the accompanying consolidated statements of operations. See Note 3 herein for a detailed discussion of the property acquisition completed during the six months ended June 30, 2010.

Deferred Financing Costs

The Company defers financing costs and amortizes the costs over the terms of the related debt using the effective interest method. Upon repayment of or in conjunction with a material change in the terms of the underlying debt agreement, any unamortized costs are charged to earnings. Accumulated amortization at June 30, 2010 and December 31, 2009 approximated $9.2 million and $9.0 million, respectively. Deferred financing costs, net of amortization, are included in other assets on the accompanying consolidated balance sheets.

Joint Ventures

The Company holds interests in both consolidated and unconsolidated joint ventures. The Company consolidates joint ventures when it exhibits financial or operational control, which is determined using accounting standards related to the consolidation of joint ventures and VIE's. For joint ventures that are defined as VIE's, the primary beneficiary consolidates the entity. In instances where the Company is not the primary beneficiary, it does not consolidate the joint venture for financial reporting purposes. For joint ventures that are not defined as VIEs, management first considers whether the Company is the general partner or a limited partner (or the equivalent in such investments which are not structured as partnerships). The Company consolidates joint ventures where it is the general partner (or the equivalent) and the limited partners (or the equivalent) in such investments do not have rights which would preclude control and, therefore, consolidation for financial reporting purposes. For joint ventures where the Company is the general partner (or the equivalent), but does not control the joint venture as the other partners (or the equivalent) hold substantive participating rights, the Company uses the equity method of accounting. For joint ventures where the Company is a limited partner (or the equivalent), management considers factors such as ownership interest, voting control, authority to make decisions, and contractual and substantive participating rights of the partners (or the equivalent) to determine if the presumption that the general partner controls the entity is overcome. In instances where these factors indicate the Company controls the joint venture, the Company consolidates the joint venture; otherwise it uses the equity method of accounting.

Debt Premiums and Discounts

Debt premiums and discounts represent fair value adjustments to account for the difference between the stated rates and market rates of debt assumed in connection with the Company's property acquisitions. The debt premiums and discounts are amortized to interest expense over the term of the related loans using the effective-interest method. As of June 30, 2010 and December 31, 2009, net unamortized debt premiums were approximately $3.0 million and $3.8 million, respectively, and net unamortized debt discounts were approximately $7.4 million and $8.5 million, respectively. Debt premiums and discounts are included in secured mortgage, construction and bond debt on the accompanying consolidated balance sheets.

Third-Party Development Services Revenue and Costs

Development revenues are generally recognized based on a proportionate performance method based on contract deliverables, while construction revenues are recognized using the percentage of completion method, as determined by construction costs incurred relative to total estimated construction costs. Costs associated with such projects are deferred and recognized in relation to the revenues earned on executed contracts. For projects where the Company's fee is based on a fixed price, any cost overruns incurred during construction, as compared to the original budget, will reduce the net fee generated on those projects. Incentive fees are generally recognized when the project is complete and performance has been agreed upon by all parties, or when performance has been verified by an independent third-party. The Company also evaluates the collectability of fee income and expense reimbursements generated through the provision of development and construction management services based upon the individual facts and circumstances, including the contractual right to receive such amounts in accordance with the terms of the various projects, and reserves any amounts that are deemed to be uncollectible.

AMERICAN CAMPUS COMMUNITIES, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

Pre-development expenditures such as architectural fees, permits and deposits associated with the pursuit of third-party and owned development projects are expensed as incurred, until such time that management believes it is probable that the contract will be executed and/or construction will commence. Because the Company frequently incurs these pre-development expenditures before a financing commitment and/or required permits and authorizations have been obtained, the Company bears the risk of loss of these pre-development expenditures if financing cannot ultimately be arranged on acceptable terms or the Company is unable to successfully obtain the required permits and authorizations. As such, management evaluates the status of third-party and owned projects that have not yet commenced construction on a periodic basis and expenses any deferred costs related to projects whose current status indicates the commencement of construction is unlikely and/or the costs may not provide future value to the Company in the form of revenues. Such write-offs are included in third-party development and management services expenses (in the case of third-party development projects) or general and administrative expenses (in the case of owned development projects) on the accompanying consolidated statements of operations. As of June 30, 2010, the Company has deferred approximately $9.4 million in pre-development costs related to third-party and owned development projects that have not yet commenced construction. Such costs are included in other assets on the accompanying consolidated balance sheets.

Derivative Instruments and Hedging Activities

The Company records all derivative financial instruments on the balance sheet at fair value. Changes in fair value are recognized either in earnings or as other comprehensive income, depending on whether the derivative has been designated as a fair value or cash flow hedge and whether it qualifies as part of a hedging relationship, the nature of the exposure being hedged, and how effective the derivative is at offsetting movements in underlying exposure. The Company discontinues hedge accounting when: (i) it determines that the derivative is no longer effective in offsetting changes in the fair value or cash flows of a hedged item; (ii) the derivative expires or is sold, terminated, or exercised; (iii) it is no longer probable that the forecasted transaction will occur; or (iv) management determines that designating the derivative as a hedging instrument is no longer appropriate. In all situations in which hedge accounting is discontinued and the derivative remains outstanding, the Company will carry the derivative at its fair value on the balance sheet, recognizing changes in the fair value in current-period earnings. The Company uses interest rate swaps to effectively convert a portion of its floating rate debt to fixed rate, thus reducing the impact of rising interest rates on interest payments. These instruments are designated as cash flow hedges and the interest differential to be paid or received is accrued as interest expense. The Company’s counter-parties are major financial institutions. See Note 12 herein for an expanded discussion on derivative instruments and hedging activities.

Income Taxes

The Company has elected to be taxed as a REIT under the Internal Revenue Code of 1986, as amended (the “Code”). To qualify as a REIT, the Company must meet a number of organizational and operational requirements, including a requirement that it currently distribute at least 90% of its adjusted taxable income to its stockholders. As a REIT, the Company will generally not be subject to corporate level federal income tax on taxable income it currently distributes to its stockholders. If the Company fails to qualify as a REIT in any taxable year, it will be subject to federal income taxes at regular corporate rates (including any applicable alternative minimum tax) and may not be able to qualify as a REIT for the subsequent four taxable years. Even if the Company qualifies for taxation as a REIT, the Company may be subject to certain state and local income and excise taxes on its income and property, and to federal income and excise taxes on its undistributed income.

The Company owns two TRS entities that manage the Company's non-REIT activities and each is subject to federal, state and local income taxes.

Earnings per Share

Basic earnings per share is computed using net income (loss) attributable to common shareholders and the weighted average number of shares of the Company's common stock outstanding during the period. Diluted earnings per share reflect common shares issuable from the assumed conversion of common and preferred Operating Partnership units and common share awards granted. Only those items having a dilutive impact on basic earnings per share are included in diluted earnings per share.

The following potentially dilutive securities were outstanding for the three and six months ended June 30, 2010 and 2009, but were not included in the computation of diluted earnings per share because the effects of their inclusion would be anti-dilutive.

AMERICAN CAMPUS COMMUNITIES, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

	Three Months Ended June 30,		Six Months Ended June 30,	
	2010	2009	2010	2009
Restricted stock awards (Note 11)	-	467,529	-	455,310
Common Operating Partnership units (Note 7)	1,171,085	1,186,785	1,179,528	1,141,666
Preferred Operating Partnership units (Note 7)	114,963	114,963	114,963	114,963
Total potentially dilutive securities	1,286,048	1,769,277	1,294,491	1,711,939

AMERICAN CAMPUS COMMUNITIES, INC. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

The following is a summary of the elements used in calculating basic and diluted earnings per share:

	Three Months Ended June 30,		Six Months Ended June 30,		
	2010	2009	2010		2009
Basic earnings per share calculation:					
Income (loss) from continuing operations	$1,001	$(4,750)	$6,875		$(3,840)
Income from continuing operations attributable to noncontrolling interests	(170)	(30)	(498)		(275)
Income (loss) from continuing operations attributable to common shareholders	831	(4,780)	6,377		(4,115)
Amount allocated to participating securities	(175)	(157)	(400)	&>Net (loss) income	

$ (2,125) 16,513,101 $ (0.13) $ 482 23,430,416 $ 0.02

	Nine Months Ended September 30, 2009			Nine Months Ended September 30, 2008		
	Loss	Shares	Per Share Amount	Loss	Shares	Per Share Amount
Basic EPS						
Loss allocated to common shares	$ (3,456)	16,133,646	$ (0.21)	$ (2,435)	13,854,860	$ (0.18)0)
Loss allocated to participating securities	—			—		
Net loss	$ (3,456)			$ (2,435)		
Diluted potential common shares		—			—	
Diluted EPS						
Adjustment for interest expense on convertible notes, net of taxes	—			—		
Net loss	$ (3,456)	16,133,646	$ (0.21)	$ (2,435)	13,854,860	$ (0.18)

For the three and nine months ended September 30, 2009, the Company has excluded options, warrants and convertible preferred stock to acquire 19,742,737 of its common stock since their effect would be anti-dilutive. For the three and nine months ended September 30, 2008, there were stock options, warrants and convertible notes outstanding to acquire 10,901,343 and 20,376,584 shares, respectively, of the Company’s common stock which were excluded from the computation of diluted loss per share because their effect would be anti-dilutive. For the three and nine months ended September 30, 2008, the Company also excluded 360,000 and 522,500 redeemable shares, respectively as their effect would be anti-dilutive. The convertible notes are included in the calculation of diluted earnings per share as all shares are assumed converted.

Note 6 : Inventory

Inventory is stated at the lower of cost or market. Cost is determined using the first-in first-out method. The Company reviews the value of its inventory and reduces the inventory value to its net realizable value based upon current market prices and contracts for future sales. The components of inventories are as follows (in thousands):

	September 30, 2009 (unaudited)	December 31, 2008
Raw materials	$ 824	$ 1,109
Work in process	324	280
Finished goods	917	985
Total inventory	$ 2,065	$ 2,374

Note 7 : Prepaid Expenses and Other Current Assets:

Prepaid expenses and other current assets consist of the following (in thousands):

	September 30, 2009 (unaudited)	December 31, 2008
Vendor prepayments	$ 418	$ 180
Other prepaid expenses *	467	383
Other assets	—	233
Total prepaid expenses and other current assets	$ 885	$ 796

*No individual amounts greater than 5% of current assets.

Note 8 : Debt

Debt, all of which is current, is as follows (in thousands):

	September 30, 2009 (unaudited)	December 31, 2008
Line of credit	$ —	$ 1,631
Other debt	—	60
Total debt	$ —	$ 1,691

The Company's line of credit with Moriah Capital, L.P. ("Moriah") matured on August 7, 2009 and the Company repaid a total of approximately $232 thousand in principal due on the line of credit. The Company did not renew its loan agreement with Moriah.

The Company entered into an agreement effective as of September 1, 2009 (the "Agreement"), with Access Business Finance, LLC ("Access") pursuant to which it may borrow an amount not to exceed $3,000,000. The Agreement provides that from time to time the Company may request advances in an amount equal to the lesser of (i) Borrowing Base less the Availability Reserves and (ii) the Maximum Amount as defined in the Agreement. The interest on the line of credit is equal to the Prime Rate plus 4.00% but may not be less than 7.25%. The term of the Agreement is for one year and will automatically renew for successive one year terms unless, at least 60 days' prior to the end of the current term, the Company gives Access prior written notice of its intent not to renew or if Access, at least ten days prior to the end of the current term, gives the Company written notice of its intent not to renew. The Company's obligations under the Agreement are secured by its assets. As of September 30, 2009, the Company had not borrowed on its line of credit. The Company paid $25,000 in annual loan fees to Access which were charged to prepaid expense and will be amortized over the life of the Agreement. As of September 30, 2009, $2,000 had been amortized to interest expense.

In the three and nine months ended September 30, 2009, approximately $61 thousand and $362 thousand, respectively, of deferred debt issuance costs were amortized to interest expense. For the three and nine months ended September 30, 2009, interest expense includes interest paid or accrued of approximately $15 thousand and $55 thousand, respectively, on outstanding debt.

Note 9 : Stock-based Compensation

The Company uses the fair value method of accounting for share-based compensation arrangements. The fair value of stock options is estimated at the date of grant using the Black-Scholes option valuation model. Stock-based compensation expense is reduced for estimated forfeitures and is amortized over the vesting period using the straight-line method.

The following table summarizes the allocation of non-cash stock-based compensation to the expense categories for the three and nine month periods ended September 30, 2009 and 2008 (in thousands):

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2009	2008	2009	2008
Cost of revenue	$ 25	$ 31	$ 111	$ 106
Research and development	39	58	165	192
Selling, general and administrative	317	149	650	547
Total stock compensation expense	$ 381	$ 238	$ 926	$ 845

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At September 30, 2009, total unrecognized non-cash compensation cost related to stock options was approximately $415 thousand, net of forfeitures. Total unrecognized compensation cost will be adjusted for future changes in estimated forfeitures and is expected to be recognized over a weighted average period of approximately 1.2 years.

Options granted to non-employees are measured at the grant date using a fair value options pricing model and remeasured to the current fair market value at each reporting period as the underlying options vest and services are rendered. For the nine months ended September 30, 2009, there were 60,000 options granted to consultants. The following assumptions were used in the Black-Scholes option pricing model to determine the fair value of stock options granted: dividend yield – 0%; risk free interest rates – 1.44% to 1.64%; expected volatility – 71.4% to 84.1%; and expected term – 3 years.

There were 411,600 and 1,278,841 options granted to employees and directors during the three and nine months ended September 30, 2009 and 171,000 and 919,253 options granted to employees and directors during the three and nine months ended September 30, 2008. The following key assumptions were used in the Black-Scholes option pricing model to determine the fair value of stock options granted:

	For the Nine Months Ended September 30, 2009	2008
Dividend yield	0%	0%
Risk free interest rates	2.02 to 2.51%	2.46 to 3.37 %
Expected volatility	80.3 to 86.4%	88.4 to 92.3 %
Expected term (in years)	4.0 to 5.5	5

The Company has not declared or paid any dividends and do not currently expect to do so in the near future. The risk-free interest rate used in the Black-Scholes option pricing model is based on the implied yield currently available on U.S. Treasury securities with an equivalent term. Expected volatility is based on the weighted average historical volatility of the Company's common stock for the most recent five year period. The expected term of options represents the period that the Company's stock-based awards are expected to be outstanding and was determined based on historical experience and vesting schedules of similar awards.

The 2008 Incentive Stock Plan ("the 2008 Plan") adopted and approved by the Board of Directors on November 5, 2008 provides for shares of common stock and options to purchase shares of common stock to employees, officers, directors and consultants. The 2008 Plan has an aggregate of 2,000,000 shares. As of September 30, 2009, 1,278,841 options were granted from this plan with a fair value of approximately $814 thousand and 498,533 shares were issued with a fair value of approximately $304 thousand. At September 30, 2009, there were 222,626 shares available for grant.

A summary of the Company's stock option activity for the nine months ended September 30, 2009 is presented in the following tables:

	Number of Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life (In Years)	Aggregate Intrinsic Value

Outstanding at January 1, 2009	1,615,673	$ 1.63		
Options granted	1,278,841	1.03		
Options exercised	—			
Options forfeited	(71,598)	2.60		
Options cancelled	—			
Outstanding at September 30, 2009	2,822,916	$ 1.33	6.37	$ 1,549,944
Vested or expected to vest at September 30, 2009 (1)	2,740,781	$ 1.29	6.37	$ 1,068,090
Exercisable at September 30, 2009	2,001,564	$ 1.39	6.71	$ 1,068,090

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The Company's stock option activity for the nine months ended September 30, 2009 (continued):

	Options Outstanding			Options Exercisable	
	Number Outstanding	Weighted Average Remaining Contractual Life (In Years)	Weighted Average Exercise Price	Number Exercisable	Weighted Average Exercisable Price
$ 0.34 - $0.98	1,226,793	6.56	$ 0.83	895,127	$ 0.81
$ 1.00 - $1.44	1,200,177	7.40	1.20	773,390	1.24
$ 2.60 - $2.70	358,746	2.75	2.62	298,847	2.61
$ 3.50 - $22.50	37,200	2.03	9.75	34,200	9.54
	2,822,916	6.37	$ 1.33	2,001,564	$ 1.39

(1) The expected to vest options are the result of applying the pre-vesting forfeiture rate assumptions to total unvested options.

The aggregate intrinsic value in the table above represents the difference between the exercise price of the underlying options and the quoted price of the Company's common stock. There were 2,417,970 options in-the-money at September 30, 2009. The Company's closing stock price was $1.65 as of September 30, 2009. The Company issues new shares of common stock upon exercise of stock options.

Note 10 : Shareholders' Equity

Preferred Stock

The Company has designated 10,000 shares of the Company's preferred stock as Preferred Stock – Series B at a stated value of $1,000 per share. The Preferred Stock – Series B is convertible into common stock at a conversion price of $0.75 per share. The Preferred Stock – Series B does not pay interest. The holders of the Preferred Stock – Series B are not entitled to receive dividends unless the Company's Board of Directors declare a dividend for holders of the Company's common stock and then the dividend shall be equal to the amount that such holder would have been entitled to receive if the holder converted its Preferred Stock – Series B into shares of the Company's common stock. Each share of Preferred Stock – Series B has voting rights equal to (i) the number of shares of Common Stock issuable upon conversion of such shares of Preferred Stock – Series B at such time (determined without regard to the shares of Common Stock so issuable upon such conversion in respect of accrued and unpaid dividends on such share of Preferred Stock) when the Preferred Stock – Series B votes together with the Company's Common Stock or any other class or series of stock of the Company and (ii) one vote per share of Preferred Stock when such vote is not covered by the immediately preceding clause. In the event of a liquidation, dissolution, or winding up of the Company, the Preferred Stock – Series B is entitled to receive liquidation preference before the Common Stock. The Company may at its option redeem the Preferred Stock – Series B by providing the required notice to the holders of the Preferred Stock – Series B and paying an amount equal to $1,000 multiplied by the number of shares for all of such holder's shares of outstanding Preferred Stock – Series B to be redeemed. As of September 30, 2009, there were 5,739 shares of

Preferred Stock – Series B issued and outstanding.

Common Stock

For the three and nine months ended September 30, 2009 and 2008, there were no stock options exercised. For the three and nine months ended September 30, 2009, there were 2.9 million warrants exercised on a cashless basis resulting in 727 thousand shares of common stock issued. No warrants were exercised for the three and nine months ended September 30, 2008.

For the three and nine months ended September 30, 2009, the Company issued 42,857 and 498,533 shares of common stock, respectively, for payment of approximately $45 thousand and $304 thousand, respectively, for services rendered and to be rendered in the future. For the three and nine months ended September 30, 2008, the Company issued 629,400 and 811,400 shares of common stock, respectively, for payment of approximately $441 thousand and $643 thousand, respectively, for services rendered and to be rendered in the future. The Company recorded the fair value of the services rendered and to be rendered in the future in prepaid expenses and selling, general and administrative expenses in the accompanying unaudited condensed consolidated financial statements for the three and nine months ended September 30, 2009 and 2008.

At December 31, 2008, the 522,500 shares underlying the 2007 and 2008 put options ("put options") granted to Moriah were presented on the balance sheet as redeemable common stock in the amount of $429,000 which represented the amount for which the shares may be redeemed at the option of Moriah. On August 7, 2009, the put options expired when Moriah elected not to exercise its put options. At September 30, 2009, the 522,500 shares were classified as permanent equity on the balance sheet.

Note 11 : Income Taxes

The Company accounts for income taxes under an asset and liability approach that requires the recognition of deferred tax assets and liabilities for the expected future tax consequences of events that have been recognized in the Company's financial statements or tax returns. The effect on deferred tax assets and liabilities of changes in tax rates will be recognized as income or expense in the period that the change occurs. A valuation allowance for deferred tax assets is recorded when it is more likely than not that some or all of the benefit from the deferred tax asset will not be realized. Changes in circumstances, assumptions and clarification of uncertain tax regimes may require changes to any valuation allowances associated with the Company's deferred tax assets.

The tax years 2005-2008 remain open to examination by the major taxing jurisdictions to which the Company is subject. In the event that the Company is assessed interest or penalties at some point in the future, it will be classified in the financial statements as general and administrative expense.

Note 12 : Commitments and Contingencies

Royalty Payments

The Company, in accordance with a royalty agreement with Eastman Kodak, must pay to Eastman Kodak a certain percentage of net sales with respect to certain products, which percentages are defined in the agreement. The percentages are on a sliding scale depending on the amount of sales generated. Any minimum royalties paid will be credited against the amounts due based on the percentage of sales. The royalty agreement terminates upon the expiration of the issued patent which is the last to expire.

Effective May 30, 2007, Kodak and eMagin entered into an intellectual property agreement where eMagin has assigned Kodak the rights, title, and interest to a Company owned patent currently not being used by the Company and in consideration, Kodak waived the royalties due under the existing licensing agreements for the first six months of 2007, and reduced the royalty payments by 50% for the second half of 2007 and for the entire calendar year of 2008. In addition, the minimum royalty payment was delayed until December 1st for the years 2007 and 2008. The Company recorded approximately $142 thousand and $396 thousand for the three and nine months ended September 30, 2008, respectively, as income from the license of intangible assets and included this amount as other income in the condensed consolidated statements of operations. Royalty expense (including amounts imputed – see above) was approximately $284 thousand and $792 thousand, respectively, for the three and nine months ended September 30, 2008.

Effective January 1, 2009, the royalty payments are to be calculated at 100%. The minimum annual royalty payment of $125 thousand was paid in January 2009.

In late 2008, the Company began evaluating the status of its manufacturing process and the use of the IP associated with its license agreement. After this analysis and after making a few changes to its manufacturing process, the Company determined it was no longer using the IP covered under the license agreement. As such, future royalty payments will be limited to the minimum royalty payment amount of $125,000 plus any residual royalties on sales of product produced prior to the manufacturing process change if such amount exceeds the minimum royalty payment. The associated royalty liability has been reduced to royalties on inventory produced prior to the manufacturing process changes. The Company is in discussions with the licensor regarding its position on the license agreement and the final outcome of these discussions is yet to be determined. As of September 30, 2009, the Company's believes that the total royalty owed is $250 thousand which is based on applying the royalty formula to only the sold displays produced prior to the manufacturing process changes. Until a final outcome is reached, the Company will continue to recognize the reduced royalty liability as stated above. For the nine months ended September 30, 2009, the Company estimated that the royalty would be approximately $1.0 million if the Company applied the royalty formula to all sold displays produced without consideration of the change in the manufacturing process. For the nine months ended September 30, 2009, the Company recorded $250 thousand as royalty expense in its consolidated statements of operations and the associated liability on its consolidated balance sheet as the Company believes that is the amount due under the agreement.

Contractual Obligations

The Company leases office facilities and office, lab and factory equipment under operating leases. Certain leases provide for payments of monthly operating expenses. The Company currently has lease commitments for space in Hopewell Junction, New York and Bellevue, Washington. In May 2009, the Company renewed its lease with IBM until May 31, 2014 with the option of extending the lease for five years. The Company's prior lease in Bellevue, Washington expired August 31, 2009. The Company signed a lease agreement for 5,100 square feet of office space effective September 1, 2009 through August 31, 2014 which will reduce the Company's monthly rent by approximately $26 thousand. Rent expense was approximately $336 thousand and $1.1 million, respectively, for the three and nine months ended September 30, 2009 and $332 thousand and $996 thousand, respectively, for the three and nine months ended September 30, 2008.

Note 13 : Subsequent Events

In preparing the Company's financial statements, the Company evaluated events and transactions for potential recognition or disclosure through November 12, 2009, the date on which this Quarterly Report on Form 10-Q was filed with the SEC.

Note 14: Restatement

In this Amended 10-Q, eMagin restated its previously issued condensed consolidated financial statements as of and for the three and nine months ended September 30, 2009 to correct errors in the accounting for certain warrants and the calculation of EPS. The Company determined that certain warrants (“Warrants”) issued contain anti-dilution provisions which should have been accounted for as derivatives in accordance with the provisions of ASC 815. Authoritative guidance, effective January 1, 2009, provides an approach for companies to evaluate whether an equity-linked financial instrument or embedded feature in the instrument is indexed to its own stock for the purpose of evaluating the scope exception in ASC 815. Since the Company has issued Warrants which contain anti-dilution features for the holder, they are not considered indexed to the Company’s own stock, and therefore, do not qualify for the scope exception in ASC 815 and must be accounted for as derivatives. Accordingly, beginning January 1, 2009, the Company should have reclassified the Warrants as liabilities and recorded the Warrants at estimated fair value at each reporting date, computed using the Monte Carlo Simulation approach. Thereafter, changes in the warrant liability from period to period should have been recorded in the condensed consolidated statements of operations. Effective January 1, 2009, the Company should have recorded a cumulative effect adjustment based on the grant date fair value of the outstanding Warrants and the change in fair value of the warrant liability from the issuance date through January 1, 2009.

The Company computed the fair value of the warrant liability using the Monte Carlo Simulation approach. The fair value as of the issuance date was $15.1 million and as of January 1, 2009 was $2.1 million. Accordingly, the Company recorded a warrant liability of $2.1 million, a reduction in additional paid-in capital of $15.1 million and a reduction in accumulated deficit of $13.0 million. As of September 30, 2009, the Company computed the fair value of the warrant liability as $6.7 million, an increase of $4.6 million. The change in the warrant liability of $4.6 million was comprised of the change in the fair value of the warrants of $6.4 million offset by the fair value of the expired warrants of $0.02 million and the fair value of the exercised warrants of $1.8 million. For the nine months ended September 30, 2009, the Company recorded other expense in the Condensed Consolidated Statements of Operations of $6.4 million, the change in fair value of the warrant liability net of the fair value of expired warrants. The Condensed Consolidated Statement of Changes in Shareholders’ Equity, Condensed Consolidated Statements of Cash Flows, and Notes to the Condensed Consolidated Financial Statements have been restated where applicable to reflect the adjustments.

The accompanying quarterly financial statements have been restated to report the following Warrants as derivative liabilities measured at estimated fair value, calculated using the Monte Carlo Simulation approach:

Warrant Issuance Dates	Number of Warrants Outstanding as of September 30, 2009	Exercise Price	Warrant Expiration Dates	Fair Value of Warrants at Issue Date (in thousands)	Fair Value of Warrants at January 1, 2009 (in thousands)	Fair Value of Warrants at June 30, 2009 (in thousands)	Fair Value of Warrants at September 30, 2009 (in thousands)
January 9, 2004	—	$ 0.35	January 8, 2009	$ 3,091	$ 15	$ —	$ —
October 25, 2004	650,001	$ 2.50	April 25, 2010	4,738	19	70	80
July 23, 2007	2,490,712	$ 1.03	July 21, 2011	5,031	1,120	2,615	2,207
	1,000,000	$ 0.48		1,136	304	728	1,208

July 23, 2007			July 21, 2011				
April 2, 2008	793,273	$ 1.13	April 2, 2013	561	224	571	954
December 22, 2008	1,875,467	$ 1.03	December 22, 2013	534	448	1,210	2,275
			Total Fair Value	$ 15,091	$ 2,130	$ 5,194	$ 6,724

The table below is a reconciliation of the beginning and ending balances for the warrant liability:

	Number of Warrants	Warrant Issuance Dates	Fair Value of Warrants (in thousands)
Balance as of January 1, 2009			$ 2,130
Change in fair value of warrants			828
Fair value of warrants expired	107,052 shares	January 9, 2004	(15)
Balance as of March 31, 2009			$ 2,943
Change in fair value of warrants			2,251
Balance as of June 30, 2009			$ 5,194
Change in fair value of warrants			3,315
Fair value of warrants exercised	2,900,000 shares	July 23, 2007	(1,785)
Balance as of September 30, 2009			$ 6,724

Additionally, under ASC 260, “Earnings Per Share”, entities that have issued securities other than common stock that participate in dividends with the common stock (“participating securities”) are required to apply the two-class method to compute basic EPS. The two-class method is an earnings allocation method under which EPS is calculated for each class of common stock and participating security as if all such earnings had been distributed during the period. However, the participating convertible preferred stock is not required to absorb any net loss. The Company has Convertible Preferred Stock - Series B which participates in dividends with the Company’s common stock and therefore the Company should have calculated EPS using the two-class method. Certain unaudited condensed consolidated financial statements have been restated to reflect EPS calculated using the two-class method.

The following tables summarize the effects of the restatement on the specific items presented in the Company's historical condensed consolidated financial statements previously included in the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2009:

Condensed Consolidated Balance Sheet (in thousands)	September 30, 2009 (As previously reported)	September 30, 2009 (As restated)
Warrant liability	$ —	$ 80
Total current liabilities	3,571	3,651
Warrant liability	—	6,644
Total liabilities	$ 3,571	$ 10,295
Shareholders' equity:		
Additional paid-in capital	$ 206,475	$ 193,169
Accumulated deficit	(198,249)	(191,667)
Total shareholders' equity	$ 8,243	$ 1,519

Condensed Consolidated Statements of Operations	Three Months Ended September 30, 2009		Nine Months Ended September 30, 2009	
(in thousands except share and per share data)	(As previously reported)	(As restated)	(As previously reported)	(As restated)
Change in fair value of warrant liability	$ —	$ (3,315)	$ —	$ (6,379)
Total other expense	$ (75)	$ (3,390)	$ (376)	$ (6,755)
Net income (loss)	$ 1,190	$ (2,125)	$ 2,923	$ (3,456)
Income (loss) per share, basic	$ 0.07	$ (0.13)	$ 0.18	$ (0.21)
Income (loss) per share, diluted	$ 0.04	$ (0.13)	$ 0.12	$ (0.21)
Weighted average number of shares outstanding:				
Basic	16,513,101	16,513,101	16,133,646	16,133,646
Diluted	26,592,267	16,513,101	24,471,486	16,133,646

Condensed Consolidated Statements of Cash Flows	Nine Months Ended September 30, 2009	
(in thousands)	(As previously reported)	(As restated)
Net income (loss)	$ 2,923	$ (3,456)
Change in fair value of warrant liability	—	6,379
Net cash provided by operating activities	$ 3,451	$ 3,451

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

Statement of Forward-Looking Information

In this quarterly report, references to "eMagin Corporation," "eMagin," "Virtual Vision," "the Company," "we," "us," and "our" refer to eMagin Corporation and its wholly owned subsidiary, Virtual Vision, Inc.

Except for the historical information contained herein, some of the statements in this Report contain forward-looking statements that involve risks and uncertainties. These statements are found in the sections entitled "Business," "Management's Discussion and Analysis of Financial Condition and Results of Operation," and "Risk Factors." They include statements concerning: our business strategy; expectations of market and customer response; liquidity and capital expenditures; future sources of revenues; expansion of our proposed product line; and trends in industry activity generally. In some cases, you can identify forward-looking statements by words such as "may," "will," "should," "expect," "plan," "could," "anticipate," "intend," "believe," "estimate," "predict," "potential," "goal," or "continue" or similar terminology. These statements are only predictions and involve known and unknown risks, uncertainties and other factors, including, but not limited to, the risks outlined under "Risk Factors," that may cause our actual results, levels of activity, performance or achievements to be materially different from any future results, levels of activity, performance or achievements expressed or implied by such forward-looking statements. For example, assumptions that could cause actual results to vary materially from future results include, but are not limited to: our ability to successfully develop and market our products to customers; our ability to generate customer demand for our products in our target markets; the development of our target markets and market opportunities; our ability to manufacture suitable products at competitive cost; market pricing for our products and for competing products; the extent of increasing competition; technological developments in our target markets and the development of alternate, competing technologies in them; and sales of shares by existing shareholders. Although we believe that the expectations reflected in the forward looking statements are reasonable, we cannot guarantee future results, levels of activity, performance or achievements. Unless we are required to do so under federal securities laws or other applicable laws, we do not intend to update or revise any forward-looking statements.

Overview

We design and manufacture miniature displays, which we refer to as OLED-on-silicon-microdisplays, and microdisplay modules for virtual imaging, primarily for incorporation into the products of other manufacturers. Microdisplays are typically smaller than many postage stamps, but when viewed through a magnifier they can contain all of the information appearing on a high-resolution personal computer screen. Our microdisplays use organic light emitting diodes, or OLEDs, which emit light themselves when a current is passed through the device. Our technology permits OLEDs to be coated onto silicon chips to produce high resolution OLED-on-silicon microdisplays.

We believe that our OLED-on-silicon microdisplays offer a number of advantages in near to the eye applications over other current microdisplay technologies, including lower power requirements, less weight, fast video speed without flicker, and wider viewing angles. In addition, many computer and video electronic system functions can be built directly into the OLED-on-silicon microdisplay, resulting in compact systems with lower expected overall system costs relative to alternate microdisplay technologies.

We hold a license from Eastman Kodak for use of their OLED related technology and we have developed a strong portfolio of our own patents, manufacturing know-how and technology to create high performance OLED-on-silicon microdisplays and related optical systems. We believe our technology and intellectual property portfolio gives us a leadership position in OLED and OLED-on-silicon microdisplay technology. We believe that we are the only company to demonstrate publicly and market full-color small molecule OLED-on-silicon microdisplays.

Restatement of Previously Issued Condensed Consolidated Financial Statements

In this Amendment No. 1 we have restated our previously issued management's discussion and analysis of financial condition and results of operations, condensed consolidated financial statements and related disclosures for the quarter ended September 30, 2009 for the following:

To correct errors in the accounting for certain warrants. Specifically, we previously classified as equity instruments warrants that should have been classified as derivative liability instruments based on the terms of the warrants and the applicable accounting guidance.

To correct an error in the calculation of earnings per share ("EPS"). We issued Preferred Stock – Series B which participates in dividends with our common stock; as a result, we should have used the two-class method for calculating EPS.

Company History

As of January 1, 2003, we were no longer classified as a development stage company. We transitioned to manufacturing our product and have significantly increased our marketing, sales, and research and development efforts, and expanded our operating infrastructure. Currently, most of our operating expenses are labor related and semi-fixed. If we are unable to generate significant revenues, our net losses in any given period could be greater than expected.

CRITICAL ACCOUNTING POLICIES

The Securities and Exchange Commission ("SEC") defines "critical accounting policies" as those that require application of management's most difficult, subjective or complex judgments, often as a result of the need to make estimates about the effect of matters that are inherently uncertain and may change in subsequent periods. Not all of the accounting policies require management to make difficult, subjective or complex judgments or estimates. However, the following policies could be deemed to be critical within the SEC definition.

Revenue and Cost Recognition

Revenue on product sales is recognized when persuasive evidence of an arrangement exists, such as when a purchase order or contract is received from the customer, the price is fixed, title and risk of loss to the goods has changed and there is a reasonable assurance of collection of the sales proceeds. We obtain written purchase authorizations from our customers for a specified amount of product at a specified price and consider delivery to have occurred at the time of shipment. We record a reserve for estimated sales returns, which is reflected as a reduction of revenue at the time of revenue recognition. Products sold directly to consumers have a thirty day right of return. Revenue on consumer products is deferred until the right of return has expired.

Revenues from research and development activities relating to firm fixed-price contracts are generally recognized on the percentage-of-completion method of accounting as costs are incurred (cost-to-cost basis). Revenues from research and development activities relating to cost-plus-fee contracts include costs incurred plus a portion of estimated fees or profits based on the relationship of costs incurred to total estimated costs. Contract costs include all direct material and labor costs and an allocation of allowable indirect costs as defined by each contract, as periodically adjusted to reflect revised agreed upon rates. These rates are subject to audit by the other party.

Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements as well as the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. These estimates and assumptions relate to recording net revenue, collectibility of accounts receivable, useful lives and impairment of tangible and intangible assets, accruals, income taxes, inventory realization and other factors. Management has exercised reasonable judgment in deriving these estimates. Consequently, a change in conditions could affect these estimates.

Fair Value of Financial Instruments - Restated

eMagin’s cash, cash equivalents, accounts receivable, short-term investments, accounts payable and debt are stated at cost which approximates fair value due to the short-term nature of these instruments. eMagin measures the fair value of our warrants based on the Monte Carlo Simulation approach.

Stock-based Compensation

eMagin maintains several stock equity incentive plans. The 2005 Employee Stock Purchase Plan (the “ESPP”) provides our employees with the opportunity to purchase common stock through payroll deductions. Employees purchase stock semi-annually at a price that is 85% of the fair market value at certain plan-defined dates. As of September 30, 2009, the number of shares of common stock available for issuance was 300,000. As of September 30, 2009, no shares have been issued from this plan.

The 2003 Stock Option Plan (the"2003 Plan") provides for grants of shares of common stock and options to purchase shares of common stock to employees, officers, directors and consultants. Under the 2003 plan, an ISO grant is granted at the market value of our common stock at the date of the grant and a non-ISO is granted at a price not to be less than 85% of the market value of the common stock. These options have a term of up to 10 years and vest over a schedule determined by the Board of Directors, generally over a five year period. The amended 2003 Plan provides for an annual increase in common stock available for issuance by 3% of the diluted shares outstanding on January 1 of each year for a period of 9 years which commenced January 1, 2005.

The 2008 Incentive Stock Plan ("the 2008 Plan") adopted and approved by the Board of Directors on November 5, 2008 provides for the issuance of shares of common stock and options to purchase shares of common stock to employees, officers, directors and consultants. The 2008 Plan has an aggregate of 2,000,000 shares. For the three and nine months ended September 30, 2009, there were 42,857 and 498,533 shares of common stock, respectively, issued to consultants. In addition, there were 411,600 and 1,278,841 options granted from the plan for the three and nine months ended September 30, 2009.

We account for the measurement and recognition of compensation expense for all share-based payment awards made to employees and directors by estimating the fair value of stock awards at the date of grant using the Black-Scholes option valuation model. Stock-based compensation expense is reduced for estimated forfeitures and is amortized over the vesting period using the straight-line method. See Note 9 of the Condensed Consolidated Financial Statements – Stock Compensation for a further discussion on stock-based compensation.

NEW ACCOUNTING PRONOUNCEMENTS

See Note 2 of the Condensed Consolidated Financial Statements in Item 1 for a description of recent accounting pronouncements.

RESULTS OF OPERATIONS

THREE MONTHS AND NINE MONTHS ENDED SEPTEMBER 30, 2009 COMPARED TO THREE MONTHS AND NINE MONTHS ENDED SEPTEMBER 30, 2008

Revenues

Revenues for the three and nine months ended September 30, 2009 were approximately $6.1 million and $17.1 million, respectively, as compared to approximately $5.2 million and $13.5 million for the three and nine months ended September 30, 2008, respectively, an increase of approximately 18% and 27%, respectively. Higher revenue for the three and nine month periods was due to increased customer demand and product availability.

For the three and nine months ended September 30, 2009, product revenue increased approximately $1.1 million and $3.4 million, respectively, as compared to the three and nine months ended September 30, 2008. The increase was due to higher customer demand and increased product availability for our OLED displays in the first nine months of 2009 as compared to the first nine months of 2008. For the three months ended September 30, 2009, contract revenue decreased approximately $0.2 million as compared to the three months ended September 30, 2008 and for the nine months ended September 30, 2009 increased approximately $0.2 million as compared to the nine months ended September 30, 2008. The change in revenue is a result of fluctuations in contract activity.

Cost of Goods Sold

Cost of goods sold includes direct and indirect costs associated with production. Cost of goods sold for the three and nine months ended September 30, 2009 were approximately $2.6 million and $7.3 million as compared to approximately $2.8 million and $8.1 million for the three and nine months ended September 30, 2008, a decrease of approximately $0.2 million and $0.8 million, respectively. Cost of goods sold as a percentage of revenues improved from 54% for the three months ended September 30, 2008 to 43% for the three months ended September 30, 2009. Cost of goods sold as a percentage of revenues improved from 60% for the nine months ended September 30, 2008 to 43% for the nine months ended September 30, 2009. Cost of goods is comprised primarily of material and labor cost. The labor portion of cost of goods is mostly fixed. Improved manufacturing yield, lower royalty expense and lower warranty expense resulted in a lower cost of goods sold percentage.

The following table outlines product, contract and total gross profit and related gross margins for the three and nine months ended September 30, 2009 and 2008 (dollars in thousands):

	Three months ended September 30,	Nine months ended September 30,

	2009	2008	2009	2008
	(unaudited)		(unaudited)	
Product revenue gross profit	$ 3,264	$ 1,769	$ 8,743	$ 4,109
Product revenue gross margin	62%	42%	60 %	37%
Contract revenue gross profit	$ 236	$ 615	$ 1,015	$ 1,250
Contract revenue gross margin	28%	61%	40%	54%
Total gross profit	$ 3,500	$ 2,384	$ 9,758	$ 5,359
Total gross margin	57%	46%	57%	40%

The gross profit for the three and nine months ended September 30, 2009 was approximately $3.5 million and $9.8 million as compared to approximately $2.4 million and $5.4 million for the three and nine months ended September 30, 2008, an increase of $1.1 million and $4.4 million, respectively. Gross margin was 57% for the three months ended September 30, 2009 up from 46% for the three months ended September 30, 2008. Gross margin was 57% for the nine months ended September 30, 2009 up from 40% for the nine months ended September 30, 2008. The increase was mainly attributed to the fuller utilization of our fixed production overhead due to improved yields and a reduction in royalty and warranty expenses. See Note 12 of the Condensed Consolidated Financial Statements - Commitments and Contingencies for further discussion on the royalty payments.

The product gross profit for the three and nine months ended September 30, 2009 was approximately $3.3 million and $8.7 million as compared to approximately $1.8 million and $4.1 million for the three and nine months ended September 30, 2008, an increase of $1.5 million and $4.6 million, respectively. Product gross margin was 62% for the three months ended September 30, 2009 up from 42% for the three months ended September 30, 2008. Product gross margin was 60% for the nine months ended September 30, 2009 up from 37% for the nine months ended September 30, 2008. The increase was attributed to the fuller utilization of our fixed production overhead due to improved yields and a reduction in royalty and warranty expenses. See Note 12 of the Condensed Consolidated Financial Statements - Commitments and Contingencies for further discussion on the royalty payments.

The contract gross profit for the three and nine months ended September 30, 2009 was approximately $0.2 million and $1.0 million as compared to approximately $0.6 million and $1.3 million for the three and nine months ended September 30, 2008, a decrease of $0.4 million and $0.3 million, respectively. Contract gross margin was 28% for the three months ended September 30, 2009 down from 61% for the three months ended September 30, 2008. Contract gross margin was 40% for the nine months ended September 30, 2009 down from 54% for the nine months ended September 30, 2008. The contract gross margin is dependent upon the mix of costs, internal versus external third party costs, with the external third party costs causing a lower gross margin and reducing the contract gross profit.

Operating Expenses

Research and Development. Research and development expenses include salaries, development materials and other costs specifically allocated to the development of new microdisplay products, OLED materials and subsystems. Research and development expenses for the three and nine months ended September 30, 2009 were approximately $0.5 million and $1.4 million, respectively, as compared to $0.3 million and $1.6 million for the three and nine months ended September 30, 2008, an increase of approximately $0.2 million and a decrease of approximately $0.2 million, respectively. The increase of $0.2 million was primarily due to the lower allocation of research and development resources and expenses related to contracts to cost of goods sold offset by the reduction in expense due to the streamlining of the research and development effort in the subsystems area. The decrease of $0.2 million was primarily related to the reduction in expense due to the streamlining of the research and development effort in the subsystems area.

Selling, General and Administrative. Selling, general and administrative expenses consist principally of salaries, fees for professional services including legal fees, as well as other marketing and administrative expenses. Selling, general and administrative expenses for the three and nine months ended September 30, 2009 were approximately $1.8 million and $5.1 million, respectively, as compared to approximately $1.3 million and $4.8 million for the three and nine months ended September 30, 2008, an increase of approximately $0.5 million and $0.3 million, respectively. The increase of $0.5 million for the three months is primarily related to an increase of personnel costs, non-cash compensation, and professional services. The increase of $0.3 million for the nine months is primarily related to an increase in personnel costs, non-cash compensation, and tradeshow costs, offset by a decrease in reserve for allowance for bad debts.

Other Income (Expense), net. Other income (expense), net consists primarily of interest income earned on investments, interest expense related to the secured debt, income from the licensing of intangible assets and expense applicable to the change in fair value of the warrant liability.

For the three and nine months ended September 30, 2009, interest expense was approximately $76 thousand and $417 thousand, respectively, as compared to $508 thousand and $1.7 million, respectively, for the three and nine months ended September 30, 2008.   For the three and nine months ended September 30, 2009, the interest expense associated with debt was $7 thousand and $48, respectively, loan fees associated with the new line of credit was $7 thousand, and the amortization of the deferred costs associated with the debt was $62 thousand and $362 thousand, respectively. The breakdown of the interest expense for the three and nine month period in 2008 was as follows: interest expense associated with debt of approximately $177 thousand and $501 thousand, respectively; the amortization of the deferred costs and waiver fees associated with the debt of approximately $331 thousand and $1.2 million, respectively; and the amortization of the debt discount associated with the debt of approximately $0 and $25 thousand, respectively. The decrease in interest expense for the three and nine months ended September 30, 2009 as compared to the three and nine months ended September 30, 2008 was primarily a result of carrying a lower balance on our line of credit, the repayment and conversion of the 8% Senior Secured Convertible Notes in December 2008, and lower deferred debt issuance costs.

Other income for the three and nine months ended September 30, 2009 was approximately $1 thousand and $41 thousand, respectively, as compared to $84 thousand and $294 thousand, respectively, for the three and nine months ended September 30, 2008. The other income for the three and nine months ended September 30, 2009 was interest income of approximately $1 thousand and $3 thousand, respectively, and for a settlement of a liability, $0 and $38 thousand, respectively. Other income for the three and nine months ended September 30, 2008 was interest income of approximately $2 thousand and $6 thousand, respectively; $142 thousand and $396 thousand, respectively, was income from a gain on the license of intangible assets; $0 and $18 thousand, respectively, of income from equipment salvage; and is offset by approximately $60 thousand and $126 thousand, respectively, of expense from registration payment arrangements. See Note 11: Commitments and Contingencies – Royalty Payments for additional information.

Change in Fair Value of Warrant Liability. In accordance with ASC 815, adopted January 1, 2009, certain warrants previously classified within equity are reclassified as liabilities. As a result of this reclassification, the accounting guidance requires revaluation of this liability every reporting period. The fair value of the liability at September 30, 2009 was measured by using the Monte Carlo Simulation model. The revaluation resulted in a charge of $3.3 million and $6.4 million, respectively, for the three and nine months ended September 30, 2009. This revaluation is a non-cash item and had no impact on our cash balances, operations, or operating income.

Liquidity and Capital Resources

As of September 30, 2009, we had approximately $3.7 million of cash and cash equivalents as compared to $2.4 million as of December 31, 2008. The change in cash and investments was primarily due to cash provided by operations of approximately $3.5 million offset by cash used for financing and investing activities of approximately $2.2 million.

Cash flow provided by operating activities during the nine months ended September 30, 2009 was approximately $3.5 million, attributable to our net loss of approximately $ 3.5 million, change in operating assets and liabilities of $0.6 million offset by non-cash expenses of $ 7.6 million. Cash flow used in operating activities during the nine months ended September 30, 2008 was approximately $1.9 million primarily attributable to our net loss of $2.4 million and an increase in accounts receivable of $1.9 million offset by non-cash expenses of $2.5 million.

Cash used in investing activities during the nine months ended September 30, 2009 and 2008 was approximately $492 thousand and $236 thousand, respectively, used for equipment purchases.

Cash used in financing activities during the nine months ended September 30, 2009 was approximately $1.7 million to pay down the line of credit. Cash provided by financing activities during the nine months ended September 30, 2008 was approximately $2.7 million and was comprised of approximately $1.6 million from the sale of common stock, $1.8 million from the line of credit, and offset by payments on debt of $0.7 million.

As we have reported, our business continues to experience revenue growth. This trend, if it continues, may result in higher accounts receivable levels and may require increased production and/or higher inventory levels. We anticipate that our cash needs to fund these requirements as well as other operating or investing cash requirements over the next twelve months will be less than our current cash on hand and the cash we anticipate generating from operations. We anticipate that we will not require additional funds over the next twelve months other than perhaps for discretionary capital spending. If unanticipated events arise during the next twelve months, we believe we can raise sufficient funds. However, if we are unable to obtain sufficient funds, we may further reduce the size of our organization and/or be forced to reduce and/or curtail our production and operations, all of which could have a material adverse impact on our business prospects.

Off-Balance Sheet Arrangements

We do not have any off balance sheet arrangements that are reasonably likely to have a current or future effect on our financial condition, revenues, results of operations, liquidity or capital expenditures.

ITEM 3. Quantitative and Qualitative Disclosures About Market Risk

Not applicable.

ITEM 4T. Controls and Procedures

(a) Evaluation of Disclosure Controls and Procedures. Based on an evaluation of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) of the Securities Exchange Act of 1934, as amended) required by paragraph (b) of Rule 13a-15 or Rule 15d-15, as of the end of the period covered by this Report, our Chief Executive Officer and Chief Financial Officer have concluded that our disclosure controls and procedures were not effective in ensuring that information required to be disclosed by us in the reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the Commission's rules and forms. Our Chief Executive Officer and Chief Financial Officer also concluded that, as of the end of the period covered by this Report, there were material weaknesses in both the design and effectiveness of our internal control over financial reporting. Management has assessed these deficiencies and has determined that there were two general categories of material weaknesses (described below) in eMagin's internal control over financial reporting. As a result of our assessment that material weaknesses in our internal control over financial reporting existed as of September 30, 2009, management has concluded that our internal control over financial reporting was not effective as of September 30, 2009. A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting such that there is a reasonable possibility that a material misstatement of our annual or interim financial statements will not be prevented or detected on a timely basis. Management recognizes that any disclosure controls and procedures, no matter how well designed and operated, can only provide reasonable assurance of achieving their objectives.

The material weaknesses we have identified in our Form 10-K for the year ended December 31, 2008 include:

Deficiencies pertaining to the lack of controls or ineffectively designed controls. Our control design analysis and process walk-throughs disclosed a number of instances where review approvals were undocumented, where established policies and procedures were not defined, and controls were not in place.

Deficiencies related to information technology control design and operating effectiveness weaknesses. This material weakness resulted from the absence of key formalized information technology policies and procedures and could result in (1) unauthorized system access, (2) application changes being implemented without adequate reliability testing, (3) inconsistent investigation of system errors and the absence of timely or properly considered remedial actions, and (4) over reliance on spreadsheet applications without quality control assurances. These factors could lead to material errors and misstatements to financial statements occurring without timely detection.

There has been an ongoing focus on the remediation activities to address the material weakness in disclosure and financial reporting controls. We have formalized and documented our review process, have better defined policies and procedures, and established additional controls where necessary. During our third quarter, we tested our controls that were in place through June 30, 2009 and we had made significant improvement with fewer deficiencies. As part of the assessment, we are and will continue to conduct testing and evaluation of the controls implemented as part of the remediation plan to ascertain that they operate effectively. We anticipate that these remediation actions and resulting improvement in controls will generally strengthen our disclosure controls and procedures and represent ongoing improvement measures. While we have taken steps to remediate the material weaknesses, these steps may not be adequate to fully do so, and additional measures may be required.

Restatement of Condensed Consolidated Financial Statements

On August 10, 2011, the Audit Committee of the Board of Directors ("Audit Committee") in consultation with the Company's management concluded that the financial statements included in the Company's Annual Reports issued on Form 10-K for the years ended December 31, 2009 and 2010 and quarterly reports issued on Form 10-Q for the quarters ended March 31, June 30, and September 30, 2009; March 31, June 30, and September 30, 2010; and March 31, 2011 did not use the proper method to calculate earnings per share and as a result, should not be relied upon. On August 15, 2011, after consulting with the Audit Committee on August 10, 2011 and with the Company's auditors and former auditors, management concluded that the Company did not properly account for certain common stock warrants as liabilities and as a result, the financial statements, as mentioned above, should not be relied upon. The Audit Committee authorized and directed Company's management to restate its consolidated financial statements for the above mentioned periods. As a result of a deficiency in our internal control over financial reporting relating to the accounting for common stock warrants, as of the end of the period covered by this report our management has reassessed the effectiveness of our disclosure controls and procedures and has determined that our disclosure controls and procedures were not effective.

Remediation Plan

Since the determination regarding this deficiency, we have devoted significant effort and resources to remediation and improvement of our internal control over financial reporting. While we had processes in place to identify and apply developments in accounting standards, we enhanced these processes to better evaluate our research of the nuances of complex accounting standards. Our enhancements included retaining a third party consultant, who is a technical accounting professional, to assist us in the interpretation and application of new and complex accounting guidance. Additionally, we have improved training of accounting personnel and communication among our internal staff, our legal team and our consultant. Management will continue to review and make necessary changes to the overall design of our internal control environment.

(b) Changes in Internal Controls. During the quarter ended September 30, 2009, other than the remediation activities noted above, there were no changes in our internal control over financial reporting identified in connection with the evaluation required by paragraph (d) of Rule 13a-15 or Rule 15d-15 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

PART II - OTHER INFORMATION

ITEM 1. Legal Proceedings

None.

ITEM 1A. Risk Factors

In addition to other information set forth in this Report, you should carefully consider the risk factors previously disclosed in "Item 1A to Part 1" of our Annual Report on Form 10-K for the year ended December 31, 2008. There were no material changes from the risk factors during the three and nine months ended September 30, 2009.

ITEM 2. Unregistered Sales of Equity Securities and Use of Proceeds.

None.

ITEM 3. Defaults Upon Senior Securities

None.

ITEM 4. Submission of Matters to a Vote of Security Holders

None.

ITEM 5. Other Information

None.

ITEM 6. Exhibits

EXHIBIT NUMBER	DESCRIPTION
31.1	Certification by Principal Executive Officer pursuant to Sarbanes Oxley Section 302 (1)
31.2	Certification by Principal Financial Officer pursuant to Sarbanes Oxley Section 302 (1)
32.1	Certification by Chief Executive Officer pursuant to 18 U.S.C. Section 1350 (1)
32.2	Certification by Chief Financial Officer pursuant to 18 U.S.C. Section 1350 (1)

(1) Filed herewith.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized on this 7th day of October 2011 .

eMAGIN CORPORATION

By: /s/ Andrew G. Sculley
Andrew G. Sculley
Chief Executive Officer
(Principal Executive Officer)

By: /s/ Paul Campbell
Paul Campbell
Chief Financial Officer
(Chief Accounting Officer and
Principal Financial Officer)