

LEAP WIRELESS INTERNATIONAL INC  
Form 8-K  
May 21, 2012

# SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

## FORM 8-K

### CURRENT REPORT

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

Date of report (Date of earliest event reported): May 17, 2012

# LEAP WIRELESS INTERNATIONAL, INC.

(Exact name of registrant as specified in its charter)

Delaware  
(State or other jurisdiction

of incorporation)

001-34865  
(Commission

File Number)  
5887 Copley Drive

San Diego, California 92111

33-0811062  
(I.R.S. Employer

Identification No.)

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(Address of Principal Executive Offices)

**(858) 882-6000**

**(Registrant's telephone number, including area code)**

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (*see* General Instruction A.2. below):

- .. Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  
- .. Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  
- .. Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  
- .. Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

**Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.**

*Approval of Fourth and Fifth Amendments to 2004 Stock Option, Restricted Stock and Deferred Stock Unit Plan*

As indicated in Item 5.07 below, at the 2012 Annual Meeting of Stockholders of Leap Wireless International, Inc. (the Company) held on May 17, 2012 (the 2012 Annual Meeting), the Company's stockholders approved proposed fourth and fifth amendments to the Company's 2004 Stock Option, Restricted Stock and Deferred Stock Unit Plan, as amended (the 2004 Plan). The fourth and fifth amendments were previously adopted by the Company's board of directors, subject to the approval of the Company's stockholders.

The fourth amendment to the 2004 Plan (the Fourth Amendment) adds performance goals, stock appreciation rights, cash settlement of deferred stock units and cash-denominated awards under the 2004 Plan for the purpose of making certain awards granted pursuant to the 2004 Plan eligible to be deducted under Section 162(m) of the Internal Revenue Code of 1986, as amended (Section 162(m)), and provides the Company with the flexibility to grant various cash-based awards under the 2004 Plan.

The fifth amendment to the 2004 Plan (the Fifth Amendment) clarifies that any awards granted under the 2004 Plan which are later surrendered by their holder for no consideration without having been exercised or settled may again be awarded under the 2004 Plan.

For a description of the 2004 Plan and the Fourth and Fifth Amendments thereto, please see Proposal 4 and Proposal 5 in the Company's definitive proxy statement for its 2012 Annual Meeting, filed with the Securities and Exchange Commission on April 27, 2012 (the 2012 Proxy Statement), which are incorporated herein by reference. The full text of the Fourth and Fifth Amendments to the 2004 Plan are attached as appendices to the 2012 Proxy Statement.

**Item 5.07 Submission of Matters to a Vote of Security Holders.**

The Company's 2012 Annual Meeting was held on May 17, 2012. At the meeting, stockholders voted on the following eight proposals:

1. to elect the Company's nine director nominees (Proposal 1);
2. to approve, on an advisory basis, named executive officer compensation (Proposal 2);
3. to reapprove the material terms of the performance goals under the Company's Executive Incentive Bonus Plan (the Executive Incentive Bonus Plan) for the purpose of making awards under this plan eligible to be deducted under Section 162(m) (Proposal 3);
4. to approve the Fourth Amendment to the 2004 Plan (Proposal 4);
5. to approve the Fifth Amendment to the 2004 Plan (Proposal 5);
6. to approve the Company's Tax Benefit Preservation Plan (Proposal 6);
7. to consider a stockholder proposal regarding majority voting in director elections, if properly presented at the Annual Meeting (Proposal 7); and
8. to ratify the selection of PricewaterhouseCoopers LLP as the Company's independent registered public accounting firm for the fiscal year ending December 31, 2012 (Proposal 8).

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A final voting report was produced by a representative of Computershare, serving as Inspector of Elections for the 2012 Annual Meeting, certifying the following results:

*Proposal 1 Election of Directors*

The Company's stockholders elected each of the Company's nine nominees to serve as directors:

|                        | <b>For</b> | <b>Withheld</b> |
|------------------------|------------|-----------------|
| John D. Harkey, Jr.    | 58,193,250 | 5,708,457       |
| S. Douglas Hutcheson   | 61,125,572 | 2,776,135       |
| Ronald J. Kramer       | 63,344,027 | 557,680         |
| Robert V. LaPenta      | 59,870,078 | 4,031,629       |
| Mark A. Leavitt        | 61,112,437 | 2,789,270       |
| Mark H. Rachesky, M.D. | 55,738,254 | 8,163,453       |
| Richard R. Roscitt     | 62,923,671 | 978,036         |
| Robert E. Switz        | 63,254,683 | 647,024         |
| Michael B. Targoff     | 59,353,415 | 4,548,292       |

*Proposal 2 Advisory Vote on Executive Compensation*

The Company's stockholders approved, on an advisory basis, the Company's 2011 named executive officer compensation:

| <b>For</b> | <b>Against</b> | <b>Abstain</b> |
|------------|----------------|----------------|
| 50,884,914 | 13,004,987     | 11,806         |

*Proposal 3 Reapproval of Performance Goals*

The Company's stockholders reapproved the material terms of the performance goals under the Company's Executive Incentive Bonus Plan:

| <b>For</b> | <b>Against</b> | <b>Abstain</b> |
|------------|----------------|----------------|
| 62,142,061 | 653,943        | 1,105,703      |

*Proposal 4 Approval of Amendment to 2004 Plan to Permit Grant of Various Awards*

The Company's stockholders approved the Fourth Amendment to the 2004 Plan:

| <b>For</b> | <b>Against</b> | <b>Abstain</b> |
|------------|----------------|----------------|
| 60,851,310 | 3,037,494      | 12,903         |

*Proposal 5 Approval of Amendment to 2004 Plan to Permit Surrender and Regrant of Awards*

The Company's stockholders approved the Fifth Amendment to the 2004 Plan:

| <b>For</b> | <b>Against</b> | <b>Abstain</b> |
|------------|----------------|----------------|
| 46,232,245 | 17,657,469     | 11,993         |

*Proposal 6 Approval of Tax Benefit Preservation Plan*

The Company's stockholders approved the Company's Tax Benefit Preservation Plan:

| <b>For</b> | <b>Against</b> | <b>Abstain</b> |
|------------|----------------|----------------|
| 58,510,079 | 5,377,810      | 13,818         |

*Proposal 7 Stockholder Proposal Regarding Majority Voting*

The Company's stockholders did not approve a stockholder proposal regarding majority voting in director elections:

| <b>For</b> | <b>Against</b> | <b>Abstain</b> |
|------------|----------------|----------------|
| 31,677,257 | 32,217,351     | 7,099          |

*Proposal 8 Ratification of Independent Auditors*

The Company's stockholders ratified the appointment of PricewaterhouseCoopers LLP as the Company's independent registered public accounting firm for the fiscal year ending December 31, 2012:

| <b>For</b> | <b>Against</b> | <b>Abstain</b> |
|------------|----------------|----------------|
| 72,332,018 | 564,065        | 9,867          |

There were 9,004,243 broker non-votes with respect to Proposals 1 through 7.

**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 hereunto duly authorized.

Date: May 21, 2012

LEAP WIRELESS INTERNATIONAL, INC.

By: /s/ Robert J. Irving, Jr.  
Robert J. Irving, Jr.  
Senior Vice President, General Counsel & Secretary