

Edgar Filing: Nuance Communications, Inc. - Form 10-Q

Nuance Communications, Inc.
Form 10-Q
February 09, 2011

Table of Contents

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

Form 10-Q

(Mark One)

- QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d)
OF THE SECURITIES EXCHANGE ACT OF 1934**
For the quarterly period ended December 31, 2010
- Or
- TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES
EXCHANGE ACT OF 1934**

Commission file number 0-27038

NUANCE COMMUNICATIONS, INC.
(Exact name of registrant as specified in its charter)

Delaware
*(State or Other jurisdiction of
incorporation or organization)*

94-3156479
*(I.R.S. Employer
Identification No.)*

1 Wayside Road
Burlington, Massachusetts
(Address of principal executive offices)

01803
(Zip Code)

Registrant's telephone number, including area code:
(781) 565-5000

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 No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes No

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. (Check one):

Edgar Filing: Nuance Communications, Inc. - Form 10-Q

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

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

The number of shares of the Registrant's Common Stock, outstanding as of January 31, 2011, was 300,573,739.

NUANCE COMMUNICATIONS, INC.

TABLE OF CONTENTS

	Page
PART I: FINANCIAL INFORMATION	
Item 1. Consolidated Financial Statements (unaudited):	
<u>a) Consolidated Statements of Operations for the three months ended December 31, 2010 and 2009</u>	2
<u>b) Consolidated Balance Sheets at December 31, 2010 and September 30, 2010</u>	3
<u>c) Consolidated Statements of Cash Flows for the three months ended December 31, 2010 and 2009</u>	4
<u>d) Notes to Consolidated Financial Statements</u>	5
<u>Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations</u>	20
<u>Item 3. Quantitative and Qualitative Disclosures about Market Risk</u>	31
<u>Item 4. Controls and Procedures</u>	32
PART II: OTHER INFORMATION	
<u>Item 1. Legal Proceedings</u>	33
<u>Item 1A. Risk Factors</u>	33
<u>Item 2. Unregistered Sales of Equity Securities and Use of Proceeds</u>	43
<u>Item 3. Defaults Upon Senior Securities</u>	43
<u>Item 5. Other Information</u>	43
<u>Item 6. Exhibits</u>	43
<u>Signatures</u>	44
<u>Exhibit Index</u>	45
Certifications	
<u>EX-10.1</u>	
<u>EX-10.2</u>	
<u>EX-31.1</u>	
<u>EX-31.2</u>	
<u>EX-32.1</u>	
<u>EX-101 INSTANCE DOCUMENT</u>	
<u>EX-101 SCHEMA DOCUMENT</u>	
<u>EX-101 CALCULATION LINKBASE DOCUMENT</u>	
<u>EX-101 LABELS LINKBASE DOCUMENT</u>	
<u>EX-101 PRESENTATION LINKBASE DOCUMENT</u>	

Table of Contents

NUANCE COMMUNICATIONS, INC.

CONSOLIDATED STATEMENTS OF OPERATIONS

	Three Months Ended December 31, 2010 2009 (Unaudited) (In thousands, except per share amounts)	
Revenues:		
Product and licensing	\$ 133,856	\$ 113,227
Professional services and hosting	122,820	103,695
Maintenance and support	47,153	46,055
Total revenues	303,829	262,977
Cost of revenues:		
Product and licensing	17,146	12,591
Professional services and hosting	78,212	61,996
Maintenance and support	8,273	7,990
Amortization of intangible assets	13,291	11,018
Total cost of revenues	116,922	93,595
Gross profit	186,907	169,382
Operating expenses:		
Research and development	41,381	36,950
Sales and marketing	78,344	65,562
General and administrative	31,182	27,451
Amortization of intangible assets	22,677	22,126
Acquisition-related costs, net	3,001	12,805
Restructuring and other charges, net	2,051	615
Total operating expenses	178,636	165,509
Income from operations	8,271	3,873
Other income (expense):		
Interest income	827	436
Interest expense	(9,227)	(10,237)
Other income, net	6,141	1,990
Income (loss) before income taxes	6,012	(3,938)
Provision for income taxes	6,021	340
Net loss	\$ (9)	\$ (4,278)

Net loss per share:

Basic	\$ (0.00)	\$ (0.02)
-------	-----------	-----------

Diluted	\$ (0.00)	\$ (0.02)
---------	-----------	-----------

Weighted average common shares outstanding:

Basic	298,633	279,068
-------	---------	---------

Diluted	298,633	279,068
---------	---------	---------

See accompanying notes.

Table of Contents**NUANCE COMMUNICATIONS, INC.****CONSOLIDATED BALANCE SHEETS**

	December 31, 2010 (Unaudited)	September 30, 2010
	(In thousands, except per share amounts)	
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 554,389	\$ 516,630
Restricted cash (Note 9)	6,626	24,503
Marketable securities	5,032	5,044
Accounts receivable, less allowances for doubtful accounts of \$5,928 and \$6,301	235,718	217,587
Acquired unbilled accounts receivable	3,423	7,412
Prepaid expenses and other current assets	74,348	70,466
Total current assets	879,536	841,642
Land, building and equipment, net	64,452	62,083
Marketable securities	32,091	28,322
Goodwill	2,088,031	2,077,943
Intangible assets, net	655,354	685,865
Other assets	69,856	73,844
Total assets	\$ 3,789,320	\$ 3,769,699
 LIABILITIES AND STOCKHOLDERS EQUITY		
Current liabilities:		
Current portion of long-term debt and capital leases	\$ 7,443	\$ 7,764
Contingent and deferred acquisition payments	12,603	2,131
Accounts payable	76,944	78,616
Accrued expenses and other current liabilities	134,297	151,621
Deferred revenue	164,075	142,340
Total current liabilities	395,362	382,472
Long-term portion of debt and capital leases	851,445	851,014
Deferred revenue, net of current portion	76,889	76,598
Deferred tax liability	64,131	63,731
Other liabilities	85,578	98,688
Total liabilities	1,473,405	1,472,503
Commitments and contingencies (Notes 5 and 18)		
Stockholders' equity:	4,631	4,631

Edgar Filing: Nuance Communications, Inc. - Form 10-Q

Series B preferred stock, \$0.001 par value; 15,000 shares authorized; 3,562 shares issued and outstanding (liquidation preference \$4,631)		
Common stock, \$0.001 par value; 560,000 shares authorized; 303,936 and 301,623 shares issued and 300,185 and 297,950 shares outstanding	304	302
Additional paid-in capital	2,601,829	2,581,901
Treasury stock, at cost (3,751 and 3,673 shares)	(16,788)	(16,788)
Accumulated other comprehensive income	7,303	8,505
Accumulated deficit	(281,364)	(281,355)
 Total stockholders' equity	 2,315,915	 2,297,196
 Total liabilities and stockholders' equity	 \$ 3,789,320	 \$ 3,769,699

See accompanying notes.

Table of Contents**NUANCE COMMUNICATIONS, INC.****CONSOLIDATED STATEMENTS OF CASH FLOWS**

	Three Months Ended December 31,	
	2010	2009
	(Unaudited)	
	(In thousands)	
Cash flows from operating activities:		
Net loss	\$ (9)	\$ (4,278)
Adjustments to reconcile net loss to net cash provided by operating activities:		
Depreciation and amortization	42,517	38,230
Stock-based compensation	32,098	20,066
Non-cash interest expense	3,192	3,279
Deferred tax provision	104	(311)
Other	(20)	691
Changes in operating assets and liabilities, net of effects from acquisitions:		
Accounts receivable	(13,273)	(6,267)
Prepaid expenses and other assets	(4,996)	475
Accounts payable	(1,530)	(3,709)
Accrued expenses and other liabilities	(17,190)	7,403
Deferred revenue	22,443	9,473
Net cash provided by operating activities	63,336	65,052
Cash flows from investing activities:		
Capital expenditures	(8,893)	(2,756)
Payments for acquisitions, net of cash acquired	(13,310)	(141,721)
Payments for equity investment		(14,970)
Purchases of marketable securities	(10,776)	
Proceeds from sales of marketable securities	6,650	
Change in restricted cash balances	17,184	
Net cash used in investing activities	(9,145)	(159,447)
Cash flows from financing activities:		
Payments of debt and capital leases	(2,069)	(1,740)
Payments on settlement of share-based derivatives	(972)	
Payments of other long-term liabilities	(2,589)	(2,256)
Excess tax benefits on employee equity awards	3,662	
Proceeds from issuance of common stock from employee stock plans	4,350	5,181
Cash used to net share settle employee equity awards	(18,403)	(7,616)
Net cash used in financing activities	(16,021)	(6,431)
Effects of exchange rate changes on cash and cash equivalents	(411)	690

Edgar Filing: Nuance Communications, Inc. - Form 10-Q

Net increase (decrease) in cash and cash equivalents	37,759	(100,136)
Cash and cash equivalents at beginning of period	516,630	527,038
Cash and cash equivalents at end of period	\$ 554,389	\$ 426,902

See accompanying notes.

Table of Contents

NUANCE COMMUNICATIONS, INC.

NOTES TO UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS

1. Organization and Presentation

The consolidated financial statements include the accounts of Nuance Communications, Inc. (Nuance , we , or the Company) and our wholly-owned subsidiaries. We prepared these unaudited interim consolidated financial statements in accordance with U.S. generally accepted accounting principles (GAAP) for interim periods. In our opinion, these financial statements reflect all adjustments, consisting of normal recurring adjustments, necessary for a fair presentation of our financial position for the periods disclosed. Intercompany transactions have been eliminated.

Although we believe the disclosures in these financial statements are adequate to make the information presented not misleading, certain information normally included in the footnotes prepared in accordance with GAAP has been omitted. Accordingly, these financial statements should be read in conjunction with the audited financial statements and the notes thereto included in our Annual Report on Form 10-K for the fiscal year ended September 30, 2010. Interim results are not necessarily indicative of the results that may be expected for a full year.

2. Summary of Significant Accounting Policies

We have made no material changes to the significant accounting policies disclosed in our Annual Report on Form 10-K for the fiscal year ended September 30, 2010.

Adoption of new accounting standards

Effective October 1, 2010, we adopted the provisions in the Financial Accounting Standards Board (FASB) Accounting Standards Update (ASU) No. 2009-14, *Software (Topic 985): Certain Revenue Arrangements that Include Software Elements* and ASU 2009-13, *Revenue Recognition (Topic 605): Multiple-Deliverable Revenue Arrangements*. As summarized in ASU 2009-14, ASC Topic 985 has been amended to remove from the scope of industry specific revenue accounting guidance for software and software related transactions, tangible products containing software components and non-software components that function together to deliver the product 's essential functionality. The provisions of ASU 2009-13 apply to arrangements that are outside the scope of software revenue recognition guidance and amend ASC Topic 605 to (1) provide updated guidance on whether multiple deliverables exist, how the deliverables in an arrangement should be separated, and the consideration allocated; (2) require an entity to allocate revenue in an arrangement using estimated selling prices of deliverables if a vendor does not have vendor-specific objective evidence or third-party evidence of selling price; and (3) eliminate the use of the residual method and require an entity to allocate revenue using the relative selling price method. The adoption of these provisions did not have a material impact on our consolidated financial statements.

Recently Issued Accounting Standards

In January 2010, the FASB issued ASU No. 2010-06, *Improving Disclosures about Fair Value Measurements (Topic 820) Fair Value Measurements and Disclosures* to add additional disclosures about the different classes of assets and liabilities measured at fair value, the valuation techniques and inputs used, the activity in Level 3 fair value measurements, and transfers between Levels 1, 2, and 3. Levels 1, 2 and 3 of fair value measurements are defined in Note 8 below. ASU 2010-06 was effective for us for the interim reporting period beginning January 1, 2010, except for the provisions related to activity in Level 3 fair value measurements. Those provisions are effective for fiscal years beginning after December 15, 2010, and for interim periods within those fiscal years. ASU 2010-06 impacts disclosure only and therefore, did not, and is not expected to, have a material impact on our financial statements.

In December 2010, the FASB issued ASU No. 2010-28, *Intangibles – Goodwill and Other (Topic 350): When to Perform Step 2 of the Goodwill Impairment Test for Reporting Units with Zero or Negative Carrying Amounts*. ASU 2010-28 is effective for fiscal years beginning after December 15, 2010 and amends the criteria for performing Step 2 of the goodwill impairment test for reporting units with zero or negative carrying amounts and

Table of Contents

NUANCE COMMUNICATIONS, INC.

NOTES TO UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS (Continued)

requires performing Step 2 if qualitative factors indicate that it is more likely than not that a goodwill impairment exists. We do not believe that this will have a material impact on our consolidated financial statements.

3. Comprehensive Loss

The components of comprehensive loss are as follows (dollars in thousands):

	Three Months Ended December 31,	
	2010	2009
Net loss	\$ (9)	\$ (4,278)
Other comprehensive income (loss):		
Foreign currency translation losses, net	(1,671)	(864)
Unrealized gains on cash flow hedge derivatives, net	507	811
Unrealized losses on marketable securities, net	(79)	
Recognition of pension loss amortization	41	
Net comprehensive loss adjustments	(1,202)	(53)
Comprehensive loss	\$ (1,211)	\$ (4,331)

4. Business Acquisitions*Proforma Results*

On December 30, 2009, we acquired all of the outstanding capital stock of SpinVox Limited (Spinvox), a UK-based privately-held company engaged in the business of providing voicemail-to-text services. The following table shows unaudited pro forma results of operations as if we had acquired SpinVox on October 1, 2009 (dollars in thousands):

	Three Months Ended December 31,	
	2010	2009
Revenue	\$ 303,829	\$ 274,953