

ACTIVE NETWORK INC  
Form S-1  
January 20, 2012  
Table of Contents

As filed with the Securities and Exchange Commission on January 20, 2012

Registration No. 333-\_\_\_\_\_

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

Washington, DC 20549

**Form S-1**

**REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933**

**The Active Network, Inc.**

(Exact name of registrant as specified in its charter)

Delaware  
(State or other jurisdiction of  
incorporation or organization)

7372  
(Primary Standard Industrial  
Classification Code Number)  
10182 Telesis Court, Suite 100

San Diego, California 92121

(858) 964-3800

33-0884962  
(I.R.S. Employer  
Identification No.)

Edgar Filing: ACTIVE NETWORK INC - Form S-1

(Address, including zip code, and telephone number, including area code, of Registrant's principal executive offices)

**David Alberga**

**Chief Executive Officer and**

**Chairman of the Board**

**Matthew Landa**

**President and Director**

**The Active Network, Inc.**

**10182 Telesis Court, Suite 100**

**San Diego, California 92121**

**(858) 964-3800**

(Name, address, including zip code, and telephone number, including area code, of agent for service)

*Copies to:*

**Kourosh Vossoughi, Esq.**  
**Chief Legal Officer, General Counsel**  
**and SVP Business Development**  
**The Active Network, Inc.**  
**10182 Telesis Court, Suite 100**  
**San Diego, California 92121**  
**Tel: (858) 964-3800**  
**Fax: (858) 658-0034**

**Michael S. Kagnoff, Esq.**  
**DLA Piper LLP (US)**  
**4365 Executive Drive, Suite 1100**  
**San Diego, CA 92121-2133**  
**Tel: (858) 677-1400**  
**Fax: (858) 677-1401**

**Approximate date of commencement of proposed sale to the public:** From time to time after the effective date of this registration statement.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933 check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

## Edgar Filing: ACTIVE NETWORK INC - Form S-1

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

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):

Large accelerated filer  Accelerated filer   
 Non-accelerated filer  Smaller reporting company

### CALCULATION OF REGISTRATION FEE

Title of each class of securities to be registered	Amount to be registered(1)	Proposed maximum offering price(2)	Amount of registration fee(2)
Common stock, par value \$0.001 per share (3)	1,050,000 shares	\$15,681,750	\$1,798
Common stock, par value \$0.001 per share (4)	300,000 shares	\$ 4,480,500	\$ 514
Common stock, par value \$0.001 per share (5)	150,000 shares	\$ 2,240,250	\$ 257
Total:	1,500,000 shares	\$22,402,500	\$2,569

- (1) In the event of a stock split, stock dividend, or similar transaction involving our common stock, the number of shares registered shall automatically be increased to cover the additional shares of common stock issuable pursuant to Rule 416 under the Securities Act of 1933, as amended (the Securities Act ).
- (2) Estimated solely for purposes of calculating the amount of the registration fee pursuant to Rule 457(c) under the Securities Act of 1933 based on the average high and low reported sales price of the common stock on the New York Stock Exchange on January 18, 2012.
- (3) Represents shares of common stock issued to the selling stockholders pursuant to the terms of that certain Agreement and Plan of Merger, dated December 30, 2011, among the registrant, Active Acquisition Corporation, a Delaware corporation and wholly-owned subsidiary of the registrant, StarCite, Inc., a Delaware corporation, and Internet Capital Group Operations, Inc., a Delaware corporation, in its capacity as the securityholders agent (the Merger Agreement ).
- (4) Represents shares of common stock that are currently held in escrow to indemnify the registrant against breaches of representations and warranties and may be released to the selling stockholders pursuant to the terms of the Merger Agreement.
- (5) Represents shares of common stock that may be issued to the selling stockholders depending on the trading price of the registrant s common stock on the New York Stock Exchange during the sixty day period following effectiveness of this registration statement.

**The registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until this Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.**

**Table of Contents**

**The information in this prospectus is not complete and may be changed. The selling stockholders may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.**

**SUBJECT TO COMPLETION, DATED JANUARY 20, 2012**

**PROSPECTUS**

# **The Active Network, Inc.**

## **1,500,000 shares of Common Stock**

This prospectus relates to the offer and sale of up to 1,500,000 shares of our common stock by the selling stockholders named in the **Selling Stockholders** section of this prospectus. These shares were privately issued to the selling stockholders in connection with a merger transaction and a private placement as described herein.

The selling stockholders may offer shares of our common stock from time to time using a number of different methods and at varying prices. For more information on possible methods of offer and sale by the selling stockholders, you should refer to the section of this prospectus entitled **Plan of Distribution**. We do not know which method, in what amount, at what price, or at what time or times the selling stockholders may sell the shares of our common stock covered by this prospectus. The selling security holders may sell all, a part or none of the securities offered by this prospectus.

We will not receive any of the proceeds from the sale by the selling stockholders of shares of our common stock. See **Use of Proceeds**. The selling security holders and any brokers executing sell orders on behalf of the selling security holders may be deemed to be **underwriters** within the meaning of the Securities Act of 1933, as amended (the **Securities Act**). Commissions received by a broker executing sell orders may be deemed to be underwriting commissions under the Securities Act.

Our common stock is listed on the New York Stock Exchange under the symbol **ACTV**. On January 19, 2012, the last reported sale price of our common stock on the New York Stock Exchange was \$14.93 per share.

**Investing in our Common Stock involves substantial risks. See Risk Factors beginning on page 8.**

We may amend or supplement this prospectus from time to time by filing amendments or supplements as required. You should read the entire prospectus and any amendments or supplements carefully before you make your investment decision.

**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.**

**The date of this prospectus is January , 2012.**

**Table of Contents****TABLE OF CONTENTS**

<u>PROSPECTUS SUMMARY</u>	1
<u>RISK FACTORS</u>	8
<u>SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS</u>	28
<u>USE OF PROCEEDS</u>	29
<u>DIVIDEND POLICY</u>	29
<u>MARKET FOR COMMON STOCK, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES</u>	30
<u>SELLING STOCKHOLDERS</u>	31
<u>PLAN OF DISTRIBUTION</u>	34
<u>DESCRIPTION OF CAPITAL STOCK</u>	36
<u>SELECTED CONSOLIDATED FINANCIAL DATA</u>	40
<u>MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS</u>	43
<u>DESCRIPTION OF BUSINESS</u>	77
<u>MANAGEMENT</u>	88
<u>EXECUTIVE COMPENSATION</u>	97
<u>RELATED PARTY TRANSACTIONS</u>	117
<u>SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT</u>	119
<u>WHERE YOU CAN FIND MORE INFORMATION</u>	122
<u>LEGAL MATTERS</u>	122
<u>EXPERTS</u>	122
<u>INDEX TO THE CONSOLIDATED FINANCIAL STATEMENTS</u>	F-1

THIS PROSPECTUS IS NOT AN OFFER TO SELL ANY SECURITIES OTHER THAN THE SHARES OF COMMON STOCK FOR SALE BY THE SELLING SECURITY HOLDERS. THIS PROSPECTUS IS NOT AN OFFER TO SELL SECURITIES IN ANY CIRCUMSTANCES IN WHICH SUCH AN OFFER IS UNLAWFUL.

You should rely only on the information contained in this prospectus. We have not authorized any other person to provide you with different information. If anyone provides you with different or inconsistent information, you should not rely on it. No offers to sell these shares of common stock will be made in any jurisdiction where the offer or sale is not permitted. You should assume that the information appearing in this prospectus is accurate only as of the date of this prospectus. Our business, financial condition, results of operations and prospects may have changed since that date. Neither the delivery of this prospectus nor any sale made in connection with this prospectus shall, under any circumstances, create any implication that there has been no change in our affairs since the date of this prospectus or that the information contained by reference to this prospectus is correct as of any time after its date.

This prospectus may be amended from time to time to add, update or change information in this prospectus. Any statement contained in this prospectus will be deemed to be modified or superseded for purposes of this prospectus to the extent that a statement contained in such prospectus amendment modifies or supersedes such statement. Any statement so modified will be deemed to constitute a part of this prospectus only as so modified, and any statement so superseded will be deemed not to constitute a part of this prospectus.

This prospectus is based on information provided by us and by other sources that we believe are reliable. This prospectus summarizes certain documents and other information and we refer you to those documents and information for a more complete understanding of what we discuss in this prospectus. In making an investment decision, you must rely on your own examination of our company and the terms of the offering, including the merits and risks involved.

The Active Network, Active, Active.com, ActiveWorks, ActiveNet, RegOnline, ReserveAmerica, RTP, StarCite and our logo are trademarks used in this prospectus. This prospectus also includes trademarks, trade names and service marks that are the property of other organizations.

**Table of Contents**

**PROSPECTUS SUMMARY**

*This summary highlights information contained elsewhere in this prospectus and does not contain all of the information that you should consider in making your investment decision. Before investing in our common stock, you should carefully read this entire prospectus, including our consolidated financial statements and the related notes included in this prospectus and the information set forth under the headings Risk Factors and Management's Discussion and Analysis of Financial Condition and Results of Operations.*

**The Active Network**

**Overview**

We are the leading provider of organization-based cloud computing applications serving a wide range of customer groups including business events, community activities, outdoors and sports. We provide applications that form an online network connecting a fragmented and diverse group of activity and event organizers with a large base of potential participants. Our proprietary technology platform transforms the way organizers manage their activities and events by automating online registrations and streamlining other critical management functions, while also driving consumer participation to their events.

We power a broad range of activities, such as reserving a campsite or tee time, signing up for a marathon or sports league, purchasing a fishing or hunting license, or participating in a community event or corporate conference. From the introduction of our platform in 1999, we have experienced significant growth and in 2010, we had over 47,000 customer organizations that drove over 70 million annual consumer registrations. Based on the results of a 2010 online survey we commissioned through Survey.com, we believe the organizations we target produce or organize activities and events for the majority of U.S. households.

Our business benefits from a powerful network effect. As more organizations use our platform, we increase the breadth and depth of activities and events offered through our platform. This more comprehensive offering of activities attracts more participants. As we attract more participants, we are able to drive increased demand for our customers' activities, thus increasing registrations and revenue for both organizers and us. This revenue growth enables us to develop enhanced functionality and services through ActiveWorks and our websites, further increasing participant engagement and attracting new organizers. In this way, we build increasing value for both organizations and participants.

We serve a wide range of customers including community and sports organizations, large corporations, small and medium-sized businesses, educational institutions, federal and state government agencies, non-profit organizations and other similar entities. We primarily generate revenue from technology fees paid by participants who register for our customers' activities through our cloud computing applications. During the nine months ended September 30, 2011, we generated revenue of \$261.3 million, as compared to \$218.0 million in the nine months ended September 30, 2010, an increase of 20%.

Our technology revenue was 85% of our total revenue for the three months ended September 30, 2011 and 86% for the nine months ended September 30, 2011. Net registration revenue was 80% of our technology revenue for the three months and 81% for the nine months ended September 30, 2011. During the nine months ended September 30, 2011, we processed approximately 63 million consumer registrations. Licensed software, maintenance, hosting and implementation revenue was 20% of our technology revenue for the three months and 19% for the nine months ended September 30, 2011. Our marketing services revenue was 15% of our total revenue for the three months ended September 30, 2011 and 14% for the nine months ended September 30, 2011.

## **Table of Contents**

### **Industry Overview**

Organizations of all sizes need to inform, engage and support their respective participants, which include attendees, members, registrants and other constituents. We believe activity and event registration and administration is a broad and large market with more than 800,000 potential customers in North America within our four primary customer groups of sports, community activities, outdoors and business events. According to a 2010 study we commissioned through Survey.com, 73% of the U.S. households surveyed paid to take part in a recreational or community activity last year. Based on the results of this survey and our internal analysis, we believe that our target market encompasses more than 1.8 billion total registrations annually in the United States, representing more than \$110 billion in registration spending. We have the opportunity to receive a fraction of each registration fee by providing the applications that help organize and manage activities and events. Furthermore, we believe the market opportunity outside the United States is greater than our domestic market opportunity.

Historically, activities and events have been organized and registrations tracked by using a combination of paper-based systems, basic desktop applications and spreadsheets. Participants register for events by phone, mail or walk-up registration, which is often costly and inefficient for both organizers and participants. This manual approach to event registration can be haphazard, time-consuming and lack sufficient process controls. Mistakes due to incorrect data entry of participant information often lead to incomplete or lost registration forms. These frequent errors add incremental costs for organizers, delay registration for participants and cause problems on-site at the activity or event.

Building a fully functional management system is a costly endeavor. Most organizers cannot afford to make the investment nor do they have the necessary technical resources to develop applications sufficient to run their businesses effectively. When organizers do attempt to automate registration and administration themselves, building and maintaining an internal system often becomes technologically challenging, time-intensive and cost prohibitive.

### **Our Solution**

ActiveWorks, our organization-based cloud computing platform, transforms the way organizers record, track, manage and share information regarding activities and events. We offer applications that allow our customers to reduce cost, attract new participants and focus resources on enhancing the quality of their events. ActiveWorks allows organizers to leverage our large-scale, common infrastructure to manage their activities and events more effectively. Additionally, we have created a number of mobile applications to enhance functionality and access to our solutions.

Our applications provide the following benefits to organizers:

*Create operational efficiencies by automating registration and administration.* Our applications reduce costs by automating processes such as activity and event registration, facility reservation, roster management, results publishing, membership management and operational reporting.

*Manage participant and activity information.* ActiveWorks centralizes a comprehensive data set of participant information for each customer and provides a user-friendly interface to easily track, manage and enhance the ongoing relationship between participants and activity organizers.

*Communicate real-time with event participants.* We enable organizers to engage participants through websites and email. This empowers our customers to seamlessly and efficiently inform, motivate and support participants, thereby building greater affinity for their organizations.

*Provide access to efficient marketing channels.* Our integrated platform allows organizers to reach a targeted group of new potential participants through a variety of resources to provide greater exposure for their activities and events.





## **Table of Contents**

Our applications provide the following benefits to participants:

*Foster discovery through our comprehensive directory.* Our websites deliver content based on a participant's interests, while facilitating discovery of new relevant and targeted activities. Our directory provides access to a broad database of events, classes, leagues, tournaments, organizations, facilities and a wide range of other activities.

*Support participation.* Throughout our offerings, participants can find resources and like-minded individuals to support every step of their journey. We offer free and premium access to training plans, articles, videos, discounts and experts through our websites, mobile applications and other social media channels.

### **Our Strengths**

Our applications are designed to reach many aspects of a consumer's lifestyle from community activities and sports to business events and the outdoors. Given this breadth, we believe the following strengths provide us with a competitive advantage within this large and growing market:

*Leader in a large and fragmented market.* We believe we have the largest customer base in our industry, including over 47,000 customers and more than 70 million annual registrations.

*Proprietary technology platform.* Our cloud computing platform allows us to efficiently develop and deliver vertical specialization and feature-rich applications for customers of all sizes.

*Dedicated and highly engaged consumers.* We provide relevant and vertical-specific directories, content and tools that engage participants and form enthusiastic and dedicated online communities. These participants generate over 1 billion page views annually on our websites.

*High degree of predictable and recurring revenue.* We have long-term, exclusive contracts with many of our customers. We also have a successful track record of renewing a high percentage of these contracts for multiple successive terms. As a result, a significant percentage of our revenue is predictable and recurring.

*Powerful network effect.* The continued growth of our customers results in more participants visiting our online communities. This growing audience creates a powerful network effect where our platform becomes increasingly valuable to both our organizers and participants, driving more registrations to our customer's activities while simultaneously offering participants additional relevant activities from which to choose.

*Alignment with our customers' interests.* Our business is uniquely aligned with the interests of our customers. Like our customers, the success of our business is directly dependent on maximizing the number of participants who register for activities and events.

*Economies of scale.* We have achieved a level of scale in our business that provides operational and technological competitive advantages. For example, we are able to leverage our significant investment in cloud infrastructure to provide higher levels of service and reliability, while maintaining a lower unit cost structure than our competition. We also apply our solutions experience accumulated through interactions with tens of thousands of organizations to design and develop features that can easily be configured for multiple types of customers, thus allowing us to spread our development costs across a much wider market opportunity than our competitors.



**Table of Contents**

**Growth Strategy**

To extend our leadership position in the activities and events market, we intend to do the following:

*Grow the number of customers we serve.* We will continue to promote the migration of organizations towards online management of activities and events, and in so doing, grow our customer base.

*Increase our online registration conversion rates.* We plan to increase participant usage of online registration services by training our customers in the execution of conversion techniques. We have developed and refined these techniques over the past 12 years through our experience working with tens of thousands of organizations.

*Deepen our relationship with existing customers.* We are dedicated to developing comprehensive, vertical-specific applications and features that increase the value of our platform to our customers. We believe these enhanced applications will allow us to generate additional revenue.

*Pursue strategic acquisitions.* We intend to pursue acquisitions to strengthen our market position, broaden our organization base, enhance our capabilities and add new applications to our platform.

*Expand internationally.* We intend to commit additional resources to markets outside North America. We believe this opportunity is larger than our domestic market, and that we are well positioned to take advantage of this opportunity as our model is readily transferable to new markets.

**Customers**

We work with organizations of all sizes. We currently have over 47,000 sports, community activities, outdoors and business event customers and received technology fees from more than 70 million registrations in 2010. Based on the results of a 2010 online survey we commissioned through Survey.com, we believe the organizations we target produce or organize activities and events for the majority of U.S. households.

In 2010, none of our customers accounted for more than five percent of our total revenue. Our technology customers can be categorized in the following four groups and can be further broken down into the verticals listed in the table below:

<i>Sports</i>	<i>Community Activities</i>	<i>Outdoors</i>	<i>Business Events</i>
Endurance Events	Parks & Recreation Departments	State Campgrounds	Conferences
Leagues & Teams	Schools & Districts	National Parks	Conventions
Golf Courses	City & County Governments	Fishing Licenses	Association Gatherings
Clubs	Camps & Retreats	Hunting Permits	Meetings & Seminars
Tournaments	Faith-Based Organizations	Marinas	Trade Shows & Expos

**Recent Developments**

On December 30, 2011, we completed a merger transaction in which we acquired StarCite, Inc. ( *StarCite* ), a technology platform provider that makes meetings and event planning, booking and management easier and more cost-effective for corporations, hotels, venues and meetings suppliers. In connection with the merger, we acquired all outstanding shares of StarCite preferred stock, StarCite common stock and warrants to purchase shares of StarCite preferred stock and common stock in exchange for \$40.0 million in cash, including an aggregate of approximately \$6.6 million used for outstanding debt and transaction expenses of StarCite, and 1,350,000 shares of our common stock, which includes 300,000 shares of common stock placed into an escrow fund to satisfy any indemnification claims made by us pursuant to the terms of our merger agreement with StarCite. In addition, in the event that shares of our common stock do not close trading at or above \$15.00 per share on the New York Stock Exchange for at least three consecutive days at any time during the sixty day period following effectiveness of the registration statement of which this prospectus forms a part, we have agreed to



## **Table of Contents**

issue an additional 150,000 shares of our common stock to the StarCite security holders. The merger consideration is also subject to adjustment based upon a final determination of StarCite's working capital and subject to certain limited holdbacks.

On December 16, 2011, we entered into a Credit Agreement (the "Credit Agreement") with Bank of America, N.A., as Administrative Agent, Swing Line Lender and L/C Issuer, Merrill Lynch, Pierce, Fenner & Smith Incorporated, as Sole Lead Arranger and Sole Book Manager, and the lenders from time to time a party thereto. The Credit Agreement provides for a five-year, senior secured revolving credit facility in an initial aggregate principal amount of \$50.0 million. The credit facility includes a \$15.0 million sublimit for the issuance of standby letters of credit and a \$5.0 million sublimit for swing line loans, which will be available on a same-day basis. The credit facility also includes an accordion feature which allows us, subject to certain terms and conditions, to increase the lending commitments by up to \$25.0 million. The proceeds of the credit facility are expected to be used, together with cash on hand, to refinance existing indebtedness, for capital expenditures and acquisitions, and to provide generally for ongoing working capital requirements and other corporate purposes.

As of December 31, 2011, we had \$5.0 million outstanding under the swing line loan facility, which was repaid in full on January 3, 2012. On January 3, 2012, we borrowed \$10.0 million under the credit facility.

## **Risk Factors Associated with our Business**

Our business is subject to numerous risks and uncertainties, including those highlighted in the section titled "Risk Factors" immediately following this prospectus summary. Some of these risks include:

we have a history of significant net losses, and we may never achieve or maintain consistent profitability;

our limited operating history, new and unproven business model and rapidly evolving market make it difficult to evaluate our future prospects and increase the risk that we will not be successful;

our growth rate over the past few years may not be sustainable. If we fail to maintain an adequate growth rate, our business will be adversely affected and we may not achieve or maintain profitability;

if we fail to effectively manage our growth, our business and operating results could be harmed; and

acquisitions could prove difficult to integrate, disrupt our business, dilute stockholder value, strain our resources and impair our operating results, financial conditions and prospects.

You should carefully consider these risks and the other risks described under the "Risk Factors" section beginning on page 8, and elsewhere in this prospectus. These risks could materially and adversely impact our business, financial condition, operating results and cash flow, which could cause the trading price of our common stock to decline and could result in a partial or total loss of your investment.

## **Corporate Information**

We were originally incorporated in California in October 1998 as Racegate.com, Inc. and became a Delaware corporation through a stock exchange agreement in July 1999. In May 2001, we changed our name to The Active Network, Inc. Our principal executive offices are located at 10182 Telesis Court, Suite 100, San Diego, California. Our corporate website address is [www.activenetwork.com](http://www.activenetwork.com), and our primary participant website is [www.active.com](http://www.active.com). Information contained on our websites is not a part of this prospectus and the inclusion of our website addresses in this prospectus is an inactive textual reference only. Unless the context requires otherwise, the words "Active," "The Active Network," "we," "company," "us" and "our" refer to The Active Network and our wholly-owned subsidiaries.



**Table of Contents**

**The Offering**

Common stock that may be offered by the selling stockholders:	Up to 1,500,000 shares of common stock, par value \$0.001 per share, including:  (i) 1,050,000 shares of common stock issued to the selling stockholders pursuant to the terms of that certain Agreement and Plan of Merger, dated December 30, 2011 (the Merger Agreement ), among us, Active Acquisition Corporation, a Delaware corporation and our wholly-owned subsidiary, StarCite, Inc., a Delaware corporation, and Internet Capital Group Operations, Inc., a Delaware corporation, in its capacity as the securityholders agent.  (ii) 300,000 shares of common stock that are currently held in escrow to indemnify us against breaches of representations and warranties and may be released to the selling stockholders pursuant to the terms of the Merger Agreement.  (iii) 150,000 shares of common stock that may be issued to the selling stockholders depending on the trading price of our common stock on the New York Stock Exchange during the sixty day period following effectiveness of the registration statement of which this prospectus forms a part.
Common stock outstanding:	56,443,349 shares outstanding as of December 31, 2011.
Use of proceeds:	We will not receive any of the proceeds from the sale of our common stock by the selling stockholders. See Use of Proceeds.
NYSE symbol for our common stock:	Our common stock is traded on the New York Stock Exchange under the symbol ACTV.
Dividends:	We have not in the past paid, and do not anticipate in the future paying, cash dividends on our common stock. See Dividend Policy.
Risk Factors	Investing in our securities involves a high degree of risk and purchasers of our securities may lose their entire investment. See Risk Factors below and the other information included elsewhere in this prospectus for a discussion of factors you should carefully consider before deciding to invest our securities.
Transfer agent and registrar:	Computershare Shareowner Services, LLC.
The number of shares of our common stock outstanding as of December 31, 2011 includes 1,350,000 shares of our common stock issued on December 30, 2011 to the selling stockholders and the escrow agent upon completion of our acquisition of StarCite. The number of shares of common stock outstanding as of December 31, 2011 does not include:	

Edgar Filing: ACTIVE NETWORK INC - Form S-1

1,775,640 shares of our common stock included in treasury stock;

11,604,808 shares of common stock issuable upon exercise of outstanding stock options;



**Table of Contents**

730,226 shares of our common stock that may be issued under outstanding restricted stock units (including 67,099 restricted stock units which are contingent upon achievement of company and individual performance goals);

1,071,424 and 3,231,634 shares of common stock reserved for grant or issuance under our 2011 Employee Stock Purchase Plan and our 2011 Equity Incentive Plan, respectively; and

150,000 shares of common stock that may be issued to the selling stockholders depending on the trading price of our common stock on the New York Stock Exchange during the sixty day period following effectiveness of the registration statement of which this prospectus forms a part.

---

**Table of Contents**

**RISK FACTORS**

*The text below discusses the material risks faced by us of which we are aware. Before making an investment in our common stock, you should carefully consider the risks described below, as well as the other information set forth in this prospectus, including the information contained in our consolidated financial statements and the related notes. The risks and uncertainties described below are not the only ones we face. Additional risks and uncertainties not presently known to us or that we currently deem immaterial may also impair our operations. If any of the risks or uncertainties described below were to occur, our business, financial condition and results of operations would likely be materially and adversely affected. In these circumstances, the trading price of our common stock would likely decline, and you could lose all or part of your investment.*

**Risks Related To Our Business**

**We have a history of significant net losses, and we may not be able to achieve or maintain consistent profitability.**

We have incurred fiscal year net losses since our inception in 1998. Our net losses were approximately \$6.8 million for the nine months ended September 30, 2011, \$27.3 million for the year ended December 31, 2010, \$37.9 million for the year ended December 31, 2009 and \$49.0 million for the year ended December 31, 2008. At September 30, 2011, we had an accumulated deficit of approximately \$266.8 million. We plan to increase our operating expenses in the future as we continue to develop additional functionality and features for our applications, continue to transition our customers to ActiveWorks, make additional acquisitions, increase our sales and marketing activities, expand outside of North America and enhance our customer service and call center capabilities. If our revenue grows at a slower rate than we anticipate, or if our operating expenses increase unexpectedly, we may not be able to achieve or maintain consistent profitability.

**Our limited operating history, new and unproven business model and rapidly evolving market make it difficult to evaluate our future prospects and increase the risk that we will not be successful.**

We launched our application services in 1999, and we have made a number of changes to our operations, technology platform and online communities since that time. As a result, we have a limited operating history with our current business upon which to predict our future operating results. In addition, the business of providing cloud computing applications to activity and event organizers and building and supporting online communities for activity and event participants is relatively new and subject to rapid change. You must consider our business and prospects in light of the risks and difficulties we will continue to encounter as a company with a new and unproven business model and operating in a new and rapidly evolving market. These risks and difficulties include our ability to, among other things:

attract new customers;

deepen our relationships with our existing customers;

continue to transition our existing customers to ActiveWorks;

continue to earn the trust of organizers and participants with respect to the processing, storage and use of their confidential information and personal data in compliance with our own high standards of care and applicable governmental and other legal obligations related to privacy and data protection;

develop a scalable, high performance technology infrastructure that can securely, efficiently and reliably handle increased usage globally;

continue to manage and successfully integrate acquired businesses, applications and technologies;

successfully compete with other companies that engage in the activity and event registration and management market;

---

**Table of Contents**

continue to build and support online communities and applications for activity and event participants;

successfully introduce and deploy new features and functionality for our technology platform;

increase revenue from our applications, websites and online communities;

avoid interruptions or disruptions in our service;

avoid problems with the functionality of our applications;

continue to hire, integrate and retain highly skilled team members who embrace our values and culture; and

successfully expand our business outside of North America.

We may not be able to address these risks and difficulties or others that we may encounter, including those described elsewhere in this risk factors section. Our failure to adequately address risks and difficulties as we encounter them could cause our reputation to suffer and harm our business. We base our current and future expense levels on our management's estimates of the size of our market and the number of potential customers and registrations, operating forecasts and estimates of future revenue. However, our revenue and operating results are difficult to forecast due to the uncertainty of our market and our ability to increase our customer base and the number of participants who elect to register for activities using our applications. In addition, certain of our expenses are fixed, and we may be unable to adjust our spending in a timely manner to compensate for any unexpected shortfall in revenue. As a result, we may make errors in predicting our revenue and expenses, which would harm our business and financial condition.

**Our growth rate over the past few years may not be sustainable. If we fail to maintain an adequate growth rate, our business will be adversely affected and we may not achieve or maintain profitability.**

Our revenue has grown rapidly over the past few years, increasing from \$173.2 million in 2008 to \$242.9 million in 2009 and to \$279.6 million in 2010, representing a compound annual growth rate over this period of 27%. We may not be able to sustain this level of growth in future periods, and you should not rely on the revenue growth of any prior quarterly or annual period as an indication of our future performance. Further, a significant portion of our revenue growth in fiscal year 2009 resulted from acquisitions, and not organic growth. We may not complete acquisitions in the future that increase our revenue at the same rate as in prior periods. The identification of suitable acquisition candidates can be difficult, time-consuming and costly, and we may not be able to successfully complete the acquisitions we do identify. If we are unable to maintain an adequate rate of growth, our business will be adversely affected and we may not achieve or maintain profitability.

**If we fail to effectively manage our growth, our business and operating results could be harmed.**

The substantial growth in our business over the past few years has placed, and may continue to place, significant demands on our management, our operating infrastructure and our internal controls and procedures. As our operations grow in size and complexity, we will need to improve and upgrade our operating systems and infrastructure to offer an increasing number of organizers and participants enhanced applications, features, functionality and support. In addition, we will be required to strengthen our internal controls and our risk management policies and procedures. The expansion of our operating systems and infrastructure and the strengthening of our controls, policies and procedures will require us to commit substantial financial, operational and technical resources in advance of an increase in the volume of our business, with no assurance that our business will actually increase. Continued growth could also strain our ability to maintain reliable service levels for organizers and participants, as well as to recruit, train and retain highly skilled personnel. If we fail to effectively manage our growth, our business and operating results could be harmed.

## **Table of Contents**

### **Acquisitions could prove difficult to integrate, disrupt our business, dilute stockholder value, strain our resources and impair our operating results, financial conditions and prospects.**

Acquisitions have been an important part of our growth to date. We have completed a significant number of acquisitions over the past few years, including our recent acquisition of StarCite. We intend to continue to seek to acquire and invest in businesses, applications and technologies that we believe could complement or expand our business, augment our market coverage, enhance our technology platform, provide us with valuable customer contacts or otherwise offer growth opportunities.

Acquisitions and investments involve numerous risks and difficulties, including:

difficulties in integrating operations, technologies, accounting functions and personnel;

difficulties in supporting and transitioning customers of our acquired companies to our technology platform;

difficulties in maintaining the security and reliability of acquired applications;

delays in strengthening internal controls and risk management policies and procedures;

diversion of financial and management resources from existing operations;

potential loss of key employees;

inability to generate sufficient revenue to offset acquisition or investment costs;

assumption of unknown liabilities and claims;

potential disputes and litigation;

potential diminishment in the value of any acquired brands; and

potential write-offs of acquired assets.

Acquisitions also frequently result in recording of goodwill and other intangible assets, which are subject to potential impairments in the future that could harm our operating results. In addition, if we finance acquisitions by issuing convertible debt or equity securities, our existing stockholders may be diluted. Such dilution could adversely affect the market price of our stock. Moreover, if we are unable to identify suitable future acquisition candidates, reach agreement with these parties or obtain the financing needed to complete such acquisitions, we could lose market share to competitors who are able to complete such acquisitions. This loss of market share could negatively impact our business, revenue and future growth. If we fail to achieve the anticipated benefits of any acquisitions we have completed or may complete in the future, our business, operating results, financial condition and prospects may be impaired.

**Any failure to compete successfully against current or future competitors would materially adversely affect our business and prospects.**

## Edgar Filing: ACTIVE NETWORK INC - Form S-1

The market for technology applications for activity and event organizers is fragmented, competitive and rapidly evolving. Our primary competition comes from traditional registration processing methods used by activity and event organizers, such as paper-based registrations submitted by mail or in person or reservations submitted by telephone. We also face competition from:

custom-developed applications created by an organizer's technical staff or an outside custom service provider;

companies that offer generalized functional software that have features and functionality that organizers can use to register participants and manage their activities, such as content or contact management software programs, e-commerce solutions, enterprise resource planning software other products having separate software modules; and

## **Table of Contents**

companies that offer organizers integrated hosted software solutions in one or more verticals within the activities and events market. Our competitors may announce new products, services or enhancements that better address changing industry standards or the needs of organizers and participants. In addition, competitors and potential competitors may enter into business combinations or alliances that strengthen their competitive positions. For example, companies who we do not consider to be significant competitors could acquire one or more of the various companies in our fragmented industry and, over a short period of time, become a significant competitor in the markets we service. If any of these competitors were to aggressively price their competing services in our market, we may be required to reduce our prices, which could adversely affect our operating results and financial condition. In addition, it may be difficult to displace a competitor once they have established a relationship with an organizer.

We expect to encounter new and evolving competition as the market becomes aware of the advantages of cloud computing applications for activity and event organizers. For example, social networking companies with a large number of online users could develop competing applications or partner with third parties to do so. Future or existing competitors may introduce different pricing models, and offer users applications at minimal or no cost. In addition, larger, better capitalized companies with greater operational, strategic, financial, personnel, customer or user bases and other resources than we have could also enter our market and attempt to compete with us. If we do not successfully compete with existing and future competitors, our business and prospects will be adversely affected.

### **Our business may be harmed if we fail to successfully transition certain of our existing customers to ActiveWorks.**

We have made a significant investment in developing ActiveWorks, and a large number of our customers are currently being served by our ActiveWorks architecture at varying levels of integration. We are in the process of transitioning to ActiveWorks certain customers who continue to use both our internally developed systems and acquired legacy systems. We are developing the additional features required to complete this transition. In addition, as part of our growth strategy, we expect to continue to inherit legacy systems. We will evaluate these systems to determine, based on their sophistication and compatibility, whether to integrate them into ActiveWorks or to migrate the customers using them to ActiveWorks. This process is time consuming and requires the investment of significant technical and human resources. During this process, we will continue to incur the costs and face the risks and difficulties associated with maintaining multiple legacy systems. During that transition period, we may also experience service interruptions, system failures and security breaches due to the shortcomings of certain of the legacy systems. Further, as we transition legacy systems to ActiveWorks, we may discontinue certain brands associated with those legacy systems and we may encounter resistance from customers who have affinity for these brands. If we fail to complete the transition to ActiveWorks in a cost-effective and timely manner and without service interruptions, system failures, security breaches or resistance from customers, our business may be harmed.

### **If our computer systems are compromised, we could be subject to fines, damages, litigation and enforcement actions and organizers and participants could curtail or cease using our applications, the occurrence of which would harm our business.**

Our computer systems involve the storage and transmission of non-public personal and credit card information provided by our customers and participants. Despite our security measures, our computer systems are vulnerable to computer viruses, break-ins and other attacks that could lead to the unauthorized access, disclosure and use of non-public personal information, including credit card data. The techniques used by criminal elements to attack our computer systems are sophisticated, change frequently and may originate from less regulated and remote areas of the world. As a result, we may not be able to address these techniques proactively or implement adequate preventative measures. In one instance, we became aware of a security breach

## **Table of Contents**

in one of the legacy computer systems we inherited through one of our acquisitions. This type of breach could potentially result in the unauthorized acquisition and use of credit card data of a number of participants. We promptly isolated the affected computer system, conducted a forensic analysis of this breach, took steps to clean the affected computer system and implemented a remediation plan to prevent any further breach. We cooperated with the federal authorities investigating the criminals who perpetrated the attack. We cannot guarantee that we will be able to prevent a breach of our computer systems in the future. The breach of our computer systems may subject us to fines, damages from claims asserted by payment processors, merchant banks, organizers and participants, litigation and enforcement actions. In addition, if we experience further compromises of our computer systems, payment processors, merchant banks, organizers and participants may lose confidence and cease using our applications, which would harm our business.

### **We are subject to data privacy laws and regulations as well as contractual privacy obligations, and our failure to comply could subject us to fines and damages and would harm our reputation and business.**

We are subject to the data privacy laws and regulations adopted by federal, state and foreign governmental agencies. Data privacy is highly regulated, and may become the subject of additional regulation in the future. Privacy laws restrict our storage, use, processing, disclosure, transfer and protection of non-public personal information, including credit card data, provided to us by our customers and participants. In addition, we are subject to the privacy-related obligations in our contracts with our customers and other third parties (including voluntary third-party certification bodies such as TRUSTe). Any failure by us to comply with applicable privacy laws or regulations, our contractual privacy obligations or our own privacy policies, may result in fines, statutory or contractual damages or litigation or governmental enforcement actions. Additionally, violations of our legal or contractual privacy obligations could cause organizers and participants to lose trust in us, which would harm our reputation and business.

### **Our technology systems are vulnerable to damage, interruptions or failures, any of which could harm our reputation and business.**

Our technology systems rely on computer hardware and communications systems located either in our facilities or at third-party facilities, including our main web-hosting facilities in Las Vegas, Nevada, Ashburn, Virginia and Toronto, Ontario. We do not control the operation of the third-party facilities and must rely on third parties to provide the physical security, facilities management and communications infrastructure services to ensure the reliable and consistent delivery of our solutions to our customers. Our web-hosting technology systems located at our facilities and at third-party facilities are vulnerable to damage or interruption from catastrophic occurrences such as earthquakes, floods, fires, power loss, telecommunications failures, terrorist attacks and similar unforeseen events. Despite any precautions we may take, the occurrence of a natural disaster or other unexpected problems at one of our facilities or the facilities operated by third parties who house our equipment could result in lengthy interruptions in our services.

We are in the process of implementing procedures designed to allow us to move our production operations over to a backup datacenter in the event of a catastrophe. Although this program is functional, it does not provide a real-time failover in all instances, so if one of our websites shuts down it would remain shut down for a period of time while the transition takes place, and during that time, the website would not be accessible. In addition, the prolonged interruption of service of one or more of our websites that process transactions could result in potentially significant losses.

We carry business interruption insurance but our coverage may not be sufficient to compensate us for the potentially significant losses that may result from prolonged interruptions in our services as a result of system failures.



## **Table of Contents**

### **If credit card payment processors and service providers fail or no longer agree to provide their services or increase processing fees, our customer relationships could be adversely affected and we could lose business and revenue.**

We rely on agreements with large payment processing organizations to enable us to provide credit card authorization, data capture, settlement and merchant accounting services, and access to various reporting tools for the customers we serve. Our credit card processors and service providers could terminate their arrangements with us or fail to perform their services efficiently, each of which would adversely affect our relationships with customers and could cause customers to discontinue using our applications. In addition, we cannot guarantee that credit card companies will not increase the transaction fees we incur for each registration we process. If credit card payment processors and service providers fail or no longer agree to provide their services or increase processing fees, our customer relationships could be adversely affected and we could lose business and revenue.

### **We are subject to the rules and regulations adopted by the card networks, such as Visa, MasterCard and American Express, and if we fail to adhere to their rules and regulations, we would be in breach of our contractual obligations to payment processors and merchant banks, which could subject us to damages and liability and could eventually prevent us from processing or accepting credit cards.**

The card networks, such as Visa, MasterCard and American Express, have adopted rules and regulations that apply to all merchants who process and accept credit cards for payment of goods and services. We are obligated to comply with these rules and regulations as part of the contracts we enter into with payment processors and merchant banks. The rules and regulations adopted by the card networks include the Payment Card Industry Data Security Standards, or the PCI DSS. Under the PCI DSS, we are required to adopt and implement internal controls over the use, storage and security of card data to help prevent credit card fraud. We assess our compliance with the PCI DSS on a periodic basis, and make necessary improvements to our internal controls. If we fail to comply with the rules and regulations adopted by the card networks, including the PCI DSS, we would be in breach our contractual obligations to payment processors and merchant banks. Such failure to comply may subject us to fines, penalties, damages and civil liability, and could eventually prevent us from processing or accepting credit cards. Further, there is no guarantee that even if we comply with the rules and regulations adopted by the card networks, we will be able to maintain our compliance. We also cannot guarantee that such compliance will prevent illegal or improper use of our payments systems or the theft, loss or misuse of the credit card data of customers or participants. Any such event would harm our reputation and business.

### **We face potential liability for the fraudulent activities of organizers and their employees, participants and our employees.**

We have potential liability for losses caused by the fraudulent activities of our organizers or their employees. An organizer, or one of an organizer's employees, could use a stolen or counterfeit credit card or credit card number to record a false sales transaction, or intentionally fail to deliver merchandise, events, activities or services sold in an otherwise valid transaction. We may also face potential liability for credit card fraud by participants who register for an activity or complete a transaction through our applications. A participant could use a stolen credit card or a stolen credit card number in a credit card-not-present transaction, to register for an activity or event or purchase merchandise or services. In a traditional credit card-present transaction, if the merchant uses the credit card, receives authorization for the transaction from the credit card issuing bank and verifies the signature on the back of the credit card against the paper receipt signed by the individual using the credit card, the credit card issuing bank remains liable for any loss. In a fraudulent credit card-not-present transaction, we could be liable to the credit card issuing bank for any loss arising from the transaction, even if we receive authorization for the transaction from the same credit card issuing bank. In addition, we face potential fraud if our employees misappropriate or disclose to others who misappropriate the credit card or other sensitive information of organizers or participants. We have implemented systems and procedures designed to detect and reduce the impact of organizer, participant and employee fraud, but we cannot guarantee that these measures are or will be effective. It is possible that incidents of fraud could increase in the future, and they may remain

## **Table of Contents**

undetected for extended periods of time if our systems and procedures are not effective. Significant or recurring credit card fraud could adversely affect our business, financial condition and operating results.

### **We may face significant chargeback liability if our customers refuse or cannot reimburse chargebacks resolved in favor of participants who register through our applications.**

We may have potential liability for chargebacks associated with the transactions we process for certain of our organizer customers. If a billing dispute relating to a transaction is not ultimately resolved in favor of the organizer, the disputed transaction is charged back to our bank and credited to the credit card account of the participant. If we or our processing banks are unable to collect the chargeback from the organizer's account, or if the organizer refuses or is financially unable to reimburse us for the chargeback amount, we bear the risk of loss for the amount of the refund paid to the participant's credit card account. We have in the past experienced chargebacks related to cancelled and fraudulent events and transactions. Significant or recurring chargeback amounts could adversely affect our business, operating results and financial condition.

### **Our business is subject to a variety of U.S. and foreign laws, many of which are unsettled and still developing, and which could subject us to claims or otherwise harm our business.**

We are subject to a variety of laws in the United States and abroad that are continuously evolving and developing, and that are costly to comply with, can require significant management time and effort and can subject us to claims or other remedies. Existing and future laws and regulations may be adopted, interpreted or implemented in a manner that is inconsistent with our current business practices or that require changes to such practices, our privacy policy, the features and functionality of our applications or the design of our websites. These regulations and laws may cover taxation, tariffs, user privacy, data protection, pricing, content, copyrights, distribution, electronic contracts and other communications, consumer protection, broadband residential Internet access and the characteristics and quality of services. It is not clear how existing laws governing issues such as property ownership, sales and other taxes, libel and personal privacy apply to the Internet. If we are not able to comply with these laws and regulations or if we become liable under them, we could be directly harmed, and we may be forced to implement new measures to reduce our exposure to this liability. This may require us to expend substantial resources or to discontinue certain practices, which could negatively affect our business, financial condition and results of operations. In addition, the increased attention focused on liability as a result of lawsuits and legislative proposals could harm our reputation or otherwise harm our business.

### **Our quarterly operating results are volatile, subject to seasonal fluctuations and difficult to predict, all of which may adversely affect our stock price.**

Our quarterly operating results have fluctuated in the past and may fluctuate significantly in the future due to a variety of factors, many of which are outside of our control. For example, we generally experience seasonality due to the greater number of activities and events during the spring and summer months in North America. Other factors that may contribute to the variability of our quarterly and annual results include:

our ability to accurately forecast revenue and appropriately plan our operating expenses;

our ability to attract new, and increase the engagement and penetration of our existing, activity and event organizers;

our ability to increase the number of participants who register for the activities and events offered by our customers using our applications;

our ability to control the cost and time required to transition certain customers to ActiveWorks;

our ability to maintain and effectively manage an adequate rate of growth;

our ability to successfully enter new markets and manage our planned global expansion;



**Table of Contents**

our ability to successfully manage and integrate our past and any future acquisitions of businesses, applications or technologies;

our ability to limit interruptions in service and prevent the compromise of customer or participant data;

the effects of natural or man-made catastrophic events;

changes in the laws, regulations and legal standards affecting our business;

our ability to keep pace with changes in technology and the offerings by our competitors;

our ability to provide a high-quality participant experience through our applications and online communities;

our ability to design and implement effective internal controls and processes;

our ability to attract and retain qualified employees and key personnel;

our ability to protect our intellectual property, including our technology platform and our key brands;

our ability to control the costs associated with defending intellectual property infringement and other claims by third parties; and

the impact of worldwide economic conditions, including the resulting effect on consumer spending.

As a result, we believe that quarterly comparisons of our operating results are not necessarily meaningful and that you should not rely on the results of one quarter as an indication of our future performance. In addition, our operating results may continue to vary significantly from one quarter to the next as part of our normal business cycle, which may adversely affect our stock price.

**If we do not continue to enhance and improve our existing applications and successfully introduce new applications, our ability to maintain the pricing of our applications and to attract and retain organizer customers will be harmed.**

In the past we have grown our business in part through improving the functionality and features of our existing applications and introducing new applications to our customers, such as fundraising, real-time event tracking and merchandising for activities and events. If we fail to continue to offer new applications that increase the number of participants who register online for our customers' activities and events, and improve the ability of our customers to manage their activities and events, we may be unable to maintain the pricing of our applications. We cannot assure you that we will be able to timely and adequately develop additional functions and features or introduce new applications to satisfy the demands of our customers. Further, developing new technologies and applications entails significant technical and business risks. We cannot assure you that any new functions, features or applications will achieve the level of acceptance required for us to generate sufficient revenue to offset our development costs. If we do not continue to enhance and improve the functions and features of our existing applications and successfully introduce new applications, our ability to maintain the pricing of our applications and to attract and retain organizer customers will be harmed.

**Activity and event organizers may not widely adopt our applications to manage the important aspects of their activities and events, which would limit our ability to grow our business.**

Our ability to grow our business and increase revenue depends on our success in educating activity and event organizers about the potential benefits of our cloud computing applications. Cloud computing applications for organizing and managing important aspects of activities and

## Edgar Filing: ACTIVE NETWORK INC - Form S-1

events are relatively new, and have not been widely adopted by activity and event organizers. Concerns about cost, fraud, privacy, security, reliability and other issues may cause activity and event organizers not to adopt our applications. Moreover, activity and event organizers who have already invested substantial resources in other registration and management systems or

## **Table of Contents**

methods may be reluctant to adopt a new approach like ours to supplement or replace existing systems or methods. If activity and event organizers do not widely adopt applications such as ours, our ability to grow our business will be limited.

**If we fail to expand our customers use of our applications, our ability to execute our growth strategy and increase our revenue will be limited.**

Many of our organizer customers initially make a purchase of only one or a limited number of our available applications or use our applications for only one or a limited number of their activities or events. Our ability to grow our business and increase revenue is dependent on our ability to further penetrate our existing customers by selling additional applications to them, and by increasing the number of activities and events for which they deploy our applications. If we fail to expand the usage of our applications by our existing customers, our ability to execute our growth strategy and increase our revenue will be limited.

**If we are unable to increase the percentage of participants who register through our websites, our ability to grow our business will be impaired.**

In addition to expanding and increasing penetration within our organizer customer base, the growth of our business depends on our ability to increase the percentage of participants who elect to register for activities and events through our websites. Our ability to increase the percentage of participants who register through our websites depends on our ability to make our online registration and reservation processes simple, efficient, secure and cost-effective, as well as on our ability to develop applications, such as our online communities, activity and event information and searchable database of events, that encourage participants to use our websites. Our ability to increase participant use of our websites also depends on the ability and willingness of our organizer customers to increase the awareness of our websites to their participants. We cannot control the level of effort that organizers expend or the extent to which any of them will be successful in increasing awareness of our websites among their participants. We may not be able to prevent organizers from devoting greater resources to support other registration methods developed by them or other third parties. If we are unable to increase the percentage of participants who register for activities and events through our websites, our ability to grow our business will be impaired.

**We may not be successful in expanding into new business areas within the activity and event registration and management market, which could harm our business and future prospects.**

Our long-term strategic plan involves expanding our applications into new business areas within the activity and event registration and management market. We cannot assure you that our efforts to expand our business in this manner will succeed. We also cannot assure you that we will develop any new applications required to successfully compete in these new business areas in a cost-effective or timely manner. The lack of market acceptance of such efforts or our inability to generate satisfactory revenue to offset the development costs could harm our business and limit our future prospects.

**The sales cycle for certain of our applications can be long, and we may not recognize revenue until completion of the entire sale, which makes it difficult for us to forecast our operating results.**

It can take us between three and nine months to complete a sale to an activity or event organizer, and at times it may take up to one year or longer. The period between our initial contact with a potential customer and the completion of a sale may be relatively long due to several factors, including:

many activities and events occur only annually;

our need to educate potential customers about the uses, benefits, safety and reliability of our applications;

activity and event organizers have budget cycles which can affect the timing of purchases; and

## **Table of Contents**

some organizers, such as park and recreation department administrators, have lengthy internal approval processes before having the required authority to purchase our applications.

In addition, our customers may demand customization of the applications we provide them. As a result, these sales opportunities may require us to devote greater sales and technical resources, increasing the cost and time required to complete sales. As a result, it is difficult to predict when particular sales will occur or be completed, which adversely impacts our ability to accurately forecast our operating results.

### **Negative factors affecting the activities and events market have an adverse effect on our business and revenue.**

We primarily generate revenue from the registration and reservation fees paid by the participants in the activities and events offered by our organizer customers. As a result, our business is directly affected by factors affecting the activities and events market, including global, national or local consumer trends, adverse weather, security concerns or environmental disasters. Our performance is also subject to economic conditions and their impact on levels of consumer spending, which may remain depressed, or be subject to further deterioration, for the foreseeable future. Some of the factors that have had and may continue to have an adverse impact on discretionary consumer spending include general economic conditions, unemployment, consumer debt, reductions in net worth, disruptions in the residential real estate or mortgage markets, higher taxation, energy prices or interest rates and decreases in consumer confidence and other macroeconomic factors. Because spending for activities is generally considered to be discretionary, declines in consumer spending may have a more negative effect on our business than on those businesses that sell products or services considered to be necessities. Unfavorable changes in the above factors or in other business and economic conditions affecting our activity and event customers and their participants could cause organizers to cancel activities, result in fewer participants using our applications to register for activities, lower our profit margins, cause our activity and event customers to terminate their relationship with us or default on their payment obligations to us, any of which would have a material adverse effect on our financial condition and operating results.

### **If our customers do not renew their agreements for our applications, our business and operating results will suffer.**

We currently generate a majority of our revenue from customers who have entered into contracts with us with terms ranging from three to seven years. However, we have a number of customers with contract terms under three years. Our customers are not obligated to renew their contracts with us. Even if our customers perceive our applications to be of value, budgetary, economic or other competitive pressures may prevent some customers from renewing their contracts. If we are not successful in continuing to renew or extend the terms of our contracts with our existing customers, our business and operating results will suffer.

### **Our ability to grow our business will be impaired if we do not provide high quality customer support in a timely and cost-effective manner.**

Our ability to maintain and increase our customer base and the number of participants who use our applications depends significantly on our ability to provide high quality levels of service and support. Complaints or negative publicity about our service or support could severely diminish confidence in or use of our applications. We spend significant time and resources to hire, train and retain our service and support personnel. In addition, we are required to hire temporary employees each year to provide customer service and support during peak registration seasons. These temporary employees require training and education and take time to reach full productivity. If we are not successful in timely hiring, training and retaining our service and support personnel or otherwise fail to provide high quality service and support to organizers and participants, our ability to grow our business will be impaired.

## **Table of Contents**

### **Our ability to improve our operating margins may be limited by the requirements imposed by our government agency customers.**

We acquired the state hunting and fishing business of Automated License System and Central Trust Bank in October 2008 and the campground registration business of ReserveAmerica in January 2009. We currently operate registration services for fishing and hunting licenses in 25 states or provinces in North America, and provide registration and management services for campgrounds located in 33 states or provinces in North America. Our government agency customers often require us to customize our applications and provide additional services to their participants to qualify for these contracts. For example, we are typically required to maintain call centers for these customers to allow participants to register telephonically and receive telephonic customer service and support. We continue to focus on ways to encourage participants to use the self-service features available through our websites, however, each year we are required to hire temporary employees and independent contractors to staff our call centers during peak registration periods. A number of our state customers require us to maintain a physical call center located in their particular state. Additionally, our state customers typically require us to provide third-party audits of our operations. These additional requirements are costly to comply with and add to the complexity of our business. If we are unable to properly manage and control the cost of the additional services required by our government agency customers, our operating margins will suffer and our business and results would be harmed.

### **We may be unsuccessful in expanding our operations outside of North America, which could negatively impact our growth strategy, revenue and future growth.**

Our headquarters are located in the United States. To date, we have operated primarily in North America. Expansion outside of North America is an important aspect of our future growth strategy. Our ability to expand outside of North America involves various risks and difficulties, including:

incurring significant expenses in advance of generating material revenue as we attempt to establish our presence in international markets;

operating in unfamiliar competitive environments;

distraction of management and company resources;

different participant preferences and participation patterns than those in North America;

varied, unfamiliar and unclear legal and regulatory requirements and restrictions;

potentially greater susceptibility to fraud and security breaches;

pricing controls, legal, political or systemic restrictions on the ability of U.S. companies to compete with foreign competitors or otherwise do business in foreign countries;

less extensive adoption of the Internet as a commerce medium or information source and increased restrictions on privacy or the use of customer and participant data;

lack of infrastructure to adequately conduct electronic commerce transactions and data storage and management;



difficulties in staffing and managing foreign operations;

greater difficulty in accounts receivable collection;

currency fluctuations or other restrictions on foreign currency; and

potential adverse tax consequences.

As a result of these obstacles, we may find it difficult to expand outside of North America or we may be unsuccessful in our attempt to do so, which would negatively impact our growth strategy, revenue and future growth.

## **Table of Contents**

### **We may not timely and effectively scale and adapt our existing technology and network infrastructure to ensure that our websites are accessible with little or no perceptible load times.**

A key element in our continued growth is the ability of organizers and participants to access our websites at all times with little or no perceptible load times. This has become increasingly difficult to achieve as our applications have become more complex and our user traffic has increased. Strains on the capacity of our technology infrastructure caused by growth in the numbers of organizers and participants accessing our websites, new applications and features and overall engagement on our websites, especially at the opening of the registration period for a popular activity, have in the past resulted, and may in the future result in, slower load times or system failures. We have experienced website disruptions, outages and other performance problems due to a variety of factors, including maintaining multiple legacy systems, infrastructure changes, power failure, telecommunication outages, human or software errors and capacity constraints caused by overwhelming numbers of users accessing our websites simultaneously. If our websites are not available when users attempt to access them or do not function as expected, our customers may select another option to organize and manage their activities and events and participants may select alternative means of researching and registering for activities and events, each of which would negatively impact our business.

We expect to continue to make significant investments to upgrade our technology and network infrastructure to handle increased usage and to enable the timely and effective release of new applications. These upgrades and expansions are complex and in the past have resulted, and in the future could result, in website outages or inefficiencies or operational failures. To the extent that we do not effectively address infrastructure challenges, upgrade our systems as needed and continually develop our technology and network architecture, our business and operating results may be harmed.

### **If Internet search engines methodologies are modified or our search result page rankings decline for other reasons, participant engagement in our websites and online communities could decline.**

We depend in part on various Internet search engines to direct a significant amount of traffic to our websites. Our ability to maintain the number of potential participants directed to our websites is not entirely within our control. Our competitors' search engine optimization, or SEO, efforts may result in their websites receiving a higher search result page ranking than ours, or Internet search engines could revise their methodologies in an attempt to improve search results, which could adversely affect placement of our search result page rankings. If search engine companies revise their search algorithms in ways that are detrimental to new participant growth on our websites or in ways that make it more difficult for organizers or participants to use our websites, or if competitors' SEO efforts are more successful than ours, the overall growth in the numbers of organizers and participants using our websites could slow, participant engagement could decrease, and we could lose existing participants and become less attractive to existing and prospective organizer customers. Our websites have experienced fluctuations in search result rankings in the past, and we anticipate similar fluctuations in the future. Any reduction in the number of participants directed to our website would harm our business and operating results.

### **Our ability to establish, maintain and strengthen our brands in the activities and events market is critical to our growth strategy.**

Promoting and maintaining our brands is critical to our efforts to attract and retain our organizer customers and to increase the number of participants who use our applications. We also believe brand recognition is critical to allow us to effectively compete against the growing number of Internet sites and relatively low initial barriers to entry in certain of our markets. If we are unable to establish and maintain our brands, including THE ACTIVE NETWORK, ACTIVE, ACTIVE.COM, ACTIVENET, ACTIVEWORKS, REGONLINE, RESERVEAMERICA and STARCITE, as leaders for online registration and management applications in the activities and events market, our business and prospects would be materially and adversely affected.

## **Table of Contents**

### **We may experience difficulty in developing marketing services that are attractive to advertisers and promoters.**

The market for marketing services such as ours is relatively new and rapidly evolving. We cannot be certain this market will continue to grow. Our marketing services customers may determine that it is in their best interest to spend their marketing budgets through other forms of promotional or advertising activities. As a result, if we fail to develop compelling marketing services for advertisers and promoters, our ability to sustain and grow our marketing services business would be adversely affected.

### **If we fail to maintain and grow our user base of participants and the data we gain access to from such participants, potential advertisers may not utilize our marketing services, which may result in reduced revenue.**

We use a wide range of data to expand, refine and target our marketing services on behalf of our customers. We gain access to most of this data from participants as they opt-in to receive special offers and other direct marketing opportunities from our marketing services customers and us and the registration process for activities and events using our application services. If we are unable to maintain and grow our user base of participants and the data we gain access to from such participants, potential advertisers may not utilize our marketing services and we may lose significant marketing services revenue.

### **We might not be able to attract and retain employees, which could impede our ability to grow and successfully generate our business.**

Any failure to attract and retain qualified, experienced employees could adversely affect our ability to grow our business. To execute our continuing growth plans, we need to increase the size and maintain the quality of our staff of direct sales and business development representatives and technology development staff. To be successful, we must attract and retain highly qualified sales and other personnel with specialized skill sets focused on the activities and events industry. Competition for qualified and experienced sales and other personnel can be intense, and we might not be successful in attracting and retaining such individuals. We have from time to time experienced, and we expect to continue to experience in the future, difficulty in hiring and retaining a sufficient number of highly skilled employees with appropriate qualifications for our business.

### **Our business and prospects could be harmed if we lose members of our senior management team.**

Our performance is substantially dependent on the continued services and on the performance of our senior management and other key personnel, particularly David Alberga, our Chairman of the Board and Chief Executive Officer, Matthew Landa, our President and Director, Scott Mendel, our Chief Financial Officer and Darko Dejanovic, our Chief Technology, Product and Innovation Officer. Our performance also depends on our ability to retain and motivate other officers and key employees. We do not have long-term employment agreements with the members of our senior management or other key personnel. In addition, we do not maintain key-man insurance on these individuals. The loss of the services of any member of our senior management or other key employee for any reason would harm our business.

### **If we cannot maintain our corporate culture as we grow and evolve, we could lose the innovation, creativity and teamwork that this culture has fostered.**

We believe that a critical contributor to our success has been our corporate culture, which we believe fosters innovation, creativity and teamwork. Maintaining this corporate culture will become increasingly difficult as we grow and implement the more complex organizational management structures necessary to support our growth and to comply with the requirements imposed on public companies. Failure to maintain and further develop our culture could negatively impact our future success. In addition, our initial public offering may have created disparities in wealth among employees and our corporate culture in general.

---

**Table of Contents**

**If the protection of our technology platform, domain name, trademarks and other proprietary rights is inadequate, our business would be harmed.**

Our commercial success is dependent in part on obtaining, maintaining and enforcing our intellectual property rights. We rely on a combination of trade secret, trademark, copyright, trade dress, domain name and patent laws in the United States and in the other jurisdictions in which we operate, together with confidentiality agreements and technical measures, to protect our intellectual property. We pursue the registration of our trademarks, service marks and domain names in the United States. Our registered trademarks in the United States include THE ACTIVE NETWORK, ACTIVE, ACTIVE.COM, ACTIVENET, ACTIVEWORKS, REGONLINE, RESERVEAMERICA and STARCITE. As of December 31, 2011, we have been granted five patents by the United States Patent and Trademark Office and have six patent applications pending in the United States. Our issued patents begin to expire in February 2019. We rely more heavily on trade secret protection than patents to protect our proprietary technology. To protect our trade secrets, we control access to our proprietary systems and technology and enter into confidentiality and invention assignment agreements with our employees and consultants and confidentiality agreements with other third parties. In addition, due to the relatively high cost associated with registering all of our copyrights, we generally rely on common-law copyright laws to protect these rights.

The steps we have taken and take in the future to protect our proprietary rights may be inadequate. For example, confidentiality agreements with our employees, licenses, independent contractors and other advisors may not effectively prevent disclosure of confidential information and may not provide an adequate remedy in the event of unauthorized disclosure of confidential information. In addition, third parties may independently discover trade secrets and proprietary information, and in such cases, we may not be able to successfully assert trade secret rights against such parties. Costly and time-consuming litigation could be necessary to enforce and determine the scope of our proprietary rights. If we are unable to obtain, maintain and enforce intellectual property protection covering our technology platform, brands and domain names, others may be able to make, use or sell products that are substantially similar to ours without incurring the sizeable development costs that we have incurred, which would adversely affect our ability to compete.

In addition, the domain names for the websites that we maintain are important to our business. The regulation of domain names in the United States and in foreign countries is unclear and subject to change. Governing bodies may establish additional top-level domains, appoint additional domain name registrars or modify the requirements for holding domain names. As a result, we cannot assure you that we will be able to acquire or maintain relevant domain names. The relationship between regulations governing domain names and laws protecting trademarks and similar proprietary rights is also unclear. As a result, we may be unable to prevent third parties from acquiring domain names that are similar to, infringe upon or otherwise decrease the value of our domain names, and trademarks and other proprietary rights. Any such inability could have a material adverse effect on our business, results of operations, financial condition and prospects.

**Intellectual property claims against us could be costly and could hurt our business, operating results, financial condition and prospects.**

We cannot predict whether third parties will assert claims of infringement or other intellectual property claims against us. If we are forced to defend against third party claims, whether they are with or without merit or are determined in our favor, we could face expensive and time consuming litigation, which could distract our technical and management personnel. In the past, we received a notice from a third party alleging that our Internet fundraising program and related website operations infringe patents published by such third party. In the future, we may receive other notices from, or have lawsuits filed against us by, third parties alleging infringement. If an infringement claim is determined against us, we may be required, or deem it advisable, to develop non-infringing intellectual property or enter into costly royalty or licensing agreements. Such royalty or licensing agreements, if required, may be unavailable on terms that are acceptable to us, or at all. If a third party successfully asserts an infringement claim against us and we are required to pay monetary damages or royalties

## **Table of Contents**

or we are unable to develop suitable non-infringing alternatives or license the infringed or similar intellectual property on reasonable terms and on a timely basis, it could significantly harm our business. In addition, third parties may seek to invalidate our intellectual property.

**As a result of becoming a public company, we will be obligated to develop and maintain proper and effective internal controls over financial reporting. We may not complete our analysis of our internal controls over financial reporting in a timely manner, or these internal controls may not be determined to be effective, which may adversely affect investor confidence in our company and, as a result, the value of our common stock.**

We will be required, pursuant to Section 404 of the Sarbanes-Oxley Act of 2002 ( Section 404 ) to furnish a report by management on, among other things, the effectiveness of our internal control over financial reporting. Our first report on compliance with Section 404 is expected to be in connection with our financial statements for the fiscal year ending December 31, 2012. The controls and other procedures are designed to ensure that information required to be disclosed by us in the reports that we file with the Securities and Exchange Commission or SEC, is disclosed accurately and is recorded, processed, summarized and reported with the time periods specified in SEC rules and forms. We are in the middle of the costly and challenging process of compiling the system and processing documentation necessary to perform the evaluation needed to comply with Section 404. Although as of September 30, 2011, we have no material weaknesses in our internal controls, we have undertaken significant measures to improve the effectiveness of our internal controls in response to material weaknesses we have had in the past which have been remediated. These measures include strengthening our internal staffing and technical expertise in financial accounting and SEC reporting and developing robust review processes and procedures. We plan to continue to assess our internal controls and procedures and intend to take further action as necessary or appropriate to address any other matters we or our independent auditors identify. We cannot assure you that there will not be material weaknesses or significant deficiencies in our internal controls in the future. If we are unable to assert that our internal control over financial reporting is effective, or if our auditors are unable to express an opinion on the effectiveness of our internal controls, we could lose investor confidence in the accuracy and completeness of our financial reports, which would cause the price of our common stock to decline.

**Our reserves for state sales taxes may not be sufficient.**

Certain states in which we operate impose sales, purchase and use taxes on transactions completed through our applications. At this time, many of our systems do not automatically capture the sales, purchase and use taxes we are required to remit to these states.

As a result, we are required to analyze our transactions, and reserve an appropriate amount for the payment of state sales, purchase and use taxes. We regularly review the procedures we use to calculate our sales tax obligations as well as our sales tax reserves, and make adjustments when appropriate. Although we believe that our sales tax reserves are adequate, we may not be fully reserved and it is possible that we may be obligated to pay amounts in excess of our reserves.

**We may not be able to realize the tax benefits associated with the net operating losses we have recorded to date.**

As of December 31, 2010, we had federal tax net operating loss carry forwards of approximately \$102.1 million which will begin to expire in 2019 and state tax net operating loss carry forwards of approximately \$76.4 million which began to expire in 2011. If we do not maintain sufficient profitability prior to the expiration of these net operating loss carry forwards, then we will not be able to fully use such tax attributes to our benefit. Additional limitations on the annual use of these net operating loss carry forwards may also apply due to subsequent issuances of our stock.

## **Table of Contents**

**Covenants in our Credit Agreement may restrict our operations, and if we do not effectively manage our business to comply with these covenants, our financial condition and liquidity could be adversely affected.**

We must comply with various covenants under our Credit Agreement that limit our ability to, among other things:

incur or assume liens or additional debt or provide guarantees in respect of obligations of other persons;

pay cash dividends or distributions or redeem or repurchase capital stock;

prepay, redeem or repurchase debt;

make loans and investments;

enter into agreements that restrict distributions from our subsidiaries;

sell assets and capital stock of our subsidiaries;

enter into certain transactions with affiliates; and

consolidate or merge with or into, or sell substantially all of our assets to, another person.

In addition, under our Credit Agreement, we are required to maintain specified financial ratios. Our ability to meet these financial covenants can be affected by events beyond our control, and we may be unable to meet these tests. In addition, our failure to maintain effective internal controls to measure compliance with these financial covenants could affect our ability to take corrective actions on a timely basis, and could result in us being in breach of this covenant. Our Credit Agreement provides that our breach or failure to satisfy certain covenants constitute an event of default. Upon the occurrence of an event of default, the lenders could elect to terminate any commitment under our Credit Agreement and declare all amounts outstanding to be immediately due and payable. If we are unable to repay those amounts, our financial condition could be adversely affected. In addition, termination of our Credit Agreement could also adversely impact our liquidity.

**Our cash, cash equivalents and short-term investments are subject to a risk of loss based upon the solvency of the financial institutions in which they are maintained.**

We maintain the majority of our cash and cash equivalents in accounts with major financial institutions within the United States, in the form of demand deposits and money market accounts. Our deposits in these institutions may generally exceed the amounts of insurance provided, or deposits may not at all be covered by insurance. If any of these institutions become insolvent, it could substantially harm our financial condition and we may lose some, or all, of such deposits.

**Changes in accounting standards and subjective assumptions, estimates and judgments by management related to complex accounting matters could significantly change our reported or expected financial results.**

Generally accepted accounting principles and related accounting pronouncements, implementation guidelines and interpretations with regard to a wide range of matters that are relevant to our business, including but not limited to, revenue recognition, allowances for doubtful accounts, software development costs, stock-based compensation, business combinations, impairment of goodwill, intangible assets and long-lived assets, and accounting for income taxes are highly complex and involve many subjective assumptions, estimates and judgments by our management. Changes in these rules or their interpretation or changes in underlying assumptions, estimates or judgments by our management could significantly change our reported or expected financial performance.



## **Table of Contents**

**We are currently in the process of transitioning certain of our customers who are using the legacy systems we inherited in our acquisitions to ActiveWorks. Until we complete this transition, we may not be able to compare our key business metrics on a period-to-period basis in a manner consistent with the rest of our business, and as a result, our ability to manage our business could be adversely affected.**

We manage our business based in part on key business metrics regarding the total number of customer organizations we serve and the total number of registrations we process during a specific financial period. We are currently in the process of transitioning our customers who are currently using the legacy systems we inherited in our acquisitions to ActiveWorks. Until we complete this transition, participants for certain activities and events will continue registering through these legacy systems. Certain of these legacy systems do not track customers and registrations in a manner consistent with the rest of our business. As a result, we need to use manual processes to accumulate these metrics, which could lead to errors. If we are unable to accurately compare our key business metrics on a period-to-period basis, our ability to manage our business could be adversely affected.

**If the estimates and assumptions we use to determine the size of our target market, customer groups or the verticals within customer groups are inaccurate, our future growth rate may be limited and our business would be harmed.**

We calculate the size of our target market, customers groups and verticals within customer groups, based on data published by third parties and on assumptions that we have made based on that data. We have not independently verified any third-party information and cannot assure you of its accuracy or completeness. While we believe our market size information is generally reliable, such information is inherently imprecise. In addition, our projections, assumptions and estimates of future opportunities within our target market are necessarily subject to a high degree of uncertainty and risk due to a variety of factors, including those described in this risk factors section. If third-party data proves to be inaccurate or we make errors in our assumptions based on that data, our future growth rate may be limited. In addition, these inaccuracies or errors may cause us to misallocate capital and other business resources, which could harm our business. In the third quarter of 2011, we identified previously unreported registration data during the first and second quarters of 2011. As a result, we underreported the number of registrations for these prior periods. We identified that the underreporting resulted primarily from the prior lack of the reporting systems of two new state customers. The underreporting had no impact on our prior financial statements, nor do we believe the underreporting had a material adverse effect on our business.

## **Risks Relating To Ownership Of Our Common Stock**

**Our stock price may be volatile.**

The market price of our common stock may be subject to significant fluctuations. Factors that could affect our stock price include the following:

fluctuations in our operating results or the operating results of our competitors;

changes in estimates of our financial results or recommendations by securities analysts;

changes in the estimates of the future size and growth rate of our markets;

changes in accounting principles or changes in interpretations of existing principles, which could affect our financial results;

conditions and trends in the markets we serve;

changes in general economic, industry and market conditions;



success of competitive applications and services;

changes in market valuations or earnings of our competitors;

changes in our pricing policies or the pricing policies of our competitors;

announcements of significant new applications, contracts, acquisitions or strategic alliances by us or our competitors;

---

**Table of Contents**

changes in legislation or regulatory policies, practices or actions;

the commencement or outcome of litigation involving our company, our general industry or both;

recruitment or departure of key personnel;

changes in our capital structure, such as future issuances of securities or the incurrence of debt;

actual or expected sales of our common stock by the holders of our common stock; and

the trading volume of our common stock.

In addition, the U.S. and worldwide stock markets in general have experienced significant price and trading volume fluctuations, and the market prices of technology and Internet companies have generally been extremely volatile and have experienced sharp share price and trading volume changes. These broad market fluctuations may adversely affect the trading price of our common stock.

**The requirements of being a public company may strain our resources, divert management's attention and affect our ability to attract and retain qualified board members.**

As a public company, we are subject to the reporting requirements of the Securities Exchange Act of 1934, as amended, or the Exchange Act, the Sarbanes-Oxley Act, the Dodd-Frank Act, the listing requirements of the New York Stock Exchange and other applicable securities rules and regulations. Compliance with these rules and regulations increase our legal and financial compliance costs, make some activities more difficult, time-consuming or costly and increase demand on our systems and resources. The Exchange Act requires, among other things, that we file annual, quarterly and current reports with respect to our business and operating results. The Sarbanes-Oxley Act requires, among other things, that we maintain effective disclosure controls and procedures and internal controls over financial reporting. In order to maintain and, if required, improve our disclosure controls and procedures and internal controls over financial reporting to meet this standard, significant resources and management oversight may be required. As a result, management's attention may be diverted from other business concerns, which could harm our business and operating results. Although we have already hired additional employees to comply with these requirements, we may need to hire more employees in the future, which will increase our costs and expenses.

In addition, changing laws, regulations and standards relating to corporate governance and public disclosure are creating uncertainty for public companies, increasing legal and financial compliance costs and making some activities more time-consuming. These laws, regulations and standards are subject to varying interpretations, in many cases due to their lack of specificity, and, as a result, their application in practice may evolve over time as new guidance is provided by regulatory and governing bodies. This could result in continuing uncertainty regarding compliance matters and higher costs necessitated by ongoing revisions to disclosure and governance practices. We intend to invest resources to comply with evolving laws, regulations and standards, and this investment may result in increased general and administrative expenses and a diversion of management's time and attention from revenue-generating activities to compliance activities. If our efforts to comply with new laws, regulations and standards differ from the activities intended by regulatory or governing bodies due to ambiguities related to practice, regulatory authorities may initiate legal proceedings against us and our business may be harmed.

Any new rules and regulations may increase the cost for us to obtain director and officer liability insurance, and we may be required to accept reduced coverage or incur substantially higher costs to obtain coverage. These factors could also make it more difficult for us to attract and retain qualified executive officers and members of our board of directors, particularly to serve on our Board committees.

As a result of our public disclosure requirements, our business and financial condition has become more visible, which we believe may result in threatened or actual litigation, including by competitors and other third parties. If such claims are successful, our business and operating results could be harmed, and even if the claims

## **Table of Contents**

do not result in litigation or are resolved in our favor, these claims, and the time and resources necessary to resolve them, could divert the resources of our management and harm our business and operating results.

### **We do not expect to declare any dividends on our common stock in the foreseeable future.**

We currently intend to invest our future earnings, if any, to fund the development and growth of our business. The payment of dividends will be at the discretion of our Board of Directors and will depend on our results of operations, capital requirements, financial condition, future prospects, restrictions imposed by applicable law, any limitations on payments of dividends present in any debt agreements we may enter into and other factors our Board of Directors may deem relevant. Consequently, stockholders may need to rely on sales of their common stock after price appreciation, which may never occur, as the only way to realize any future gains on their investment. Investors seeking cash dividends should not purchase our common stock.

### **Our directors, executive officers and significant stockholders hold a substantial portion of our stock, which may lead to conflicts of interest with other stockholders over corporate transactions and other corporate matters.**

Our directors, executive officers and beneficial holders of 10% or more of our outstanding common stock beneficially own approximately 37% of our outstanding common stock, including restricted stock awards vested and stock options exercisable within 60 days after December 31, 2011. We are not aware of any stockholder or voting agreements or understandings between or among our directors, officers or current beneficial holders of 10% or more of our outstanding common stock. However, these stockholders, acting together, would be able to influence significantly all matters requiring stockholder approval, including the election of directors and significant corporate transactions such as mergers or other business combinations. This control could delay, deter or prevent a third party from acquiring or merging with us, which could adversely affect the market price of our common stock.

### **The large number of shares eligible for public sale or subject to rights requiring us to register them for public sale could depress the market price of our common stock.**

The market price of our common stock could decline as a result of sales of a large number of shares of our common stock in the market in the future. The perception that these sales could occur may also depress the market price of our common stock. Sales of our common stock as restrictions end or pursuant to registration rights may make it more difficult for us to sell equity securities in the future at a time and at a price that we deem appropriate. These sales also could cause our stock price to fall and make it more difficult for you to sell shares of our common stock.

### **If securities or industry analysts do not publish or cease publishing research or reports about us, our business or our market, or if they change their recommendations regarding our stock adversely, our stock price and trading volume could decline.**

The trading market for our common stock will be influenced by the research and reports that industry or securities analysts may publish about us, our business, our market or our competitors. If any of the analysts who may cover us change their recommendation regarding our stock adversely, or provide more favorable relative recommendations about our competitors, our stock price would likely decline. If any analyst who may cover us were to cease coverage of our company or fail to regularly publish reports on us, we could lose visibility in the financial markets, which in turn could cause our stock price or trading volume to decline.

### **Our future capital needs are uncertain, and we may need to raise additional funds in the future, which may not be available on acceptable terms or at all.**

Our capital requirements will depend on many factors, including:

acceptance of, and demand for, our applications;

**Table of Contents**

the costs of developing new applications or technology;

the timing of transitioning our customers to ActiveWorks;

the number and timing of acquisitions and other strategic transactions; and

the costs associated with the growth of our business.

Our existing sources of cash and cash flows may not be sufficient to fund all of our activities. On December 30, 2011, we used approximately \$40 million of cash (including certain deductions and holdbacks) to fund our acquisition of StarCite. While we believe we have sufficient capital through our credit facility and ongoing revenue to conduct our plan of business for at least the next 12 months, we may need to raise additional funds following such time, and such funds may not be available on reasonable terms, or at all. Furthermore, if we issue equity or convertible debt securities to raise additional funds, our existing stockholders may experience dilution, and the new equity or debt securities may have rights, preferences and privileges senior to those of our existing stockholders. If we incur additional debt, it may increase our leverage relative to our earnings or to our equity capitalization. If we cannot raise funds on acceptable terms, we may not be able to develop or enhance our applications, execute our business plan, take advantage of future opportunities or respond to competitive pressures or unanticipated customer requirements.

**Anti-takeover provisions in our charter documents and under Delaware law could make an acquisition of us more difficult, limit attempts by our stockholders to replace or remove our current directors and management team and limit the market price of our common stock.**

Our amended and restated certificate of incorporation and amended and restated bylaws contain provisions that may delay or prevent a change in control, discourage bids at a premium over the market price of our common stock and adversely affect the market price of our common stock and the voting and other rights of the holders of our common stock. These provisions include:

dividing our board into three classes, with each class serving a staggered three-year term;

prohibiting our stockholders from calling a special meeting of stockholders or acting by written consent;

permitting our board to issue additional shares of our preferred stock, with such rights, preferences and privileges as they may designate, including the right to approve an acquisition or other changes in control;

establishing an advance notice procedure for stockholder proposals to be brought before an annual meeting, including proposed nominations of persons for election to our board of directors;

providing that our directors may be removed only for cause;

providing that vacancies on our board of directors may be filled only by a majority of directors then in office, even though less than a quorum; and

requiring the approval of our board of directors or the holders of a supermajority of our outstanding shares of capital stock to amend our bylaws and certain provisions of our certificate of incorporation.

## Edgar Filing: ACTIVE NETWORK INC - Form S-1

Although we believe these provisions collectively provide for an opportunity to receive higher bids by requiring potential acquirers to negotiate with our board, they would apply even if the offer may be considered beneficial by some stockholders. In addition, these provisions may frustrate or prevent any attempts by our stockholders to replace or remove our current management team by making it more difficult for stockholders to replace members of our board, which is responsible for appointing the members of our management.

**Table of Contents**

**SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS**

This prospectus contains forward-looking statements concerning our business, operations and financial performance and condition as well as our plans, objectives and expectations for our business operations and financial performance and condition. Any statements contained herein that are not of historical facts may be deemed to be forward-looking statements. You can identify these statements by words such as aim, anticipate, assume, believe, could, due, estimate, expect, goal, intend, may, objective, plan, predict, potential, positioned, s, other similar expressions that are predictions of or indicate future events and future trends. These forward-looking statements are based on current expectations, estimates, forecasts and projections about our business and the industry in which we operate and our management's beliefs and assumptions and are not guarantees of future performance or development and involve known and unknown risks, uncertainties and other factors that are in some cases beyond our control. As a result, any or all of our forward-looking statements in this prospectus may turn out to be inaccurate. Factors that may cause such differences include, but are not limited to, the risks described under Risk Factors, including:

our history of significant operating losses;

our limited operating history, and new and unproven business model;