

LIVEPERSON INC  
Form 10-Q  
August 07, 2009

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

FORM 10-Q

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES  
EXCHANGE ACT OF 1934

For the quarterly period ended JUNE 30, 2009

or

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES  
EXCHANGE ACT OF 1934

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission file number: 0-30141

LIVEPERSON, INC.  
(Exact Name of Registrant as Specified in Its Charter)

DELAWARE  
(State or Other Jurisdiction of  
Incorporation or Organization)

13-3861628  
(IRS Employer Identification No.)

462 SEVENTH AVENUE  
NEW YORK, NEW YORK  
(Address of Principal Executive Offices)

10018  
(Zip Code)

(212) 609-4200  
(Registrant's Telephone Number, Including Area Code)

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definition 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

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Non-accelerated filer

Smaller reporting company

(Do not check if a smaller reporting company)

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

As of August 3, 2009, there were 47,781,048 shares of the issuer's common stock outstanding.

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FORWARD-LOOKING STATEMENTS

STATEMENTS IN THIS REPORT ABOUT LIVEPERSON, INC. THAT ARE NOT HISTORICAL FACTS ARE FORWARD-LOOKING STATEMENTS BASED ON OUR CURRENT EXPECTATIONS, ASSUMPTIONS, ESTIMATES AND PROJECTIONS ABOUT LIVEPERSON AND OUR INDUSTRY. THESE FORWARD-LOOKING STATEMENTS ARE SUBJECT TO RISKS AND UNCERTAINTIES THAT COULD CAUSE ACTUAL FUTURE EVENTS OR RESULTS TO DIFFER MATERIALLY FROM SUCH STATEMENTS. ANY SUCH FORWARD-LOOKING STATEMENTS ARE MADE PURSUANT TO THE SAFE HARBOR PROVISIONS OF THE PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995. IT IS ROUTINE FOR OUR INTERNAL PROJECTIONS AND EXPECTATIONS TO CHANGE AS THE YEAR OR EACH QUARTER IN THE YEAR PROGRESS, AND THEREFORE IT SHOULD BE CLEARLY UNDERSTOOD THAT THE INTERNAL PROJECTIONS AND BELIEFS UPON WHICH WE BASE OUR EXPECTATIONS MAY CHANGE PRIOR TO THE END OF EACH QUARTER OR THE YEAR. ALTHOUGH THESE EXPECTATIONS MAY CHANGE, WE ARE UNDER NO OBLIGATION TO INFORM YOU IF THEY DO. OUR COMPANY POLICY IS GENERALLY TO PROVIDE OUR EXPECTATIONS ONLY ONCE PER QUARTER, AND NOT TO UPDATE THAT INFORMATION UNTIL THE NEXT QUARTER. ACTUAL EVENTS OR RESULTS MAY DIFFER MATERIALLY FROM THOSE CONTAINED IN THE PROJECTIONS OR FORWARD-LOOKING STATEMENTS. FACTORS THAT COULD CAUSE OR CONTRIBUTE TO SUCH DIFFERENCES INCLUDE THOSE DISCUSSED IN PART II, ITEM 1A, "RISK FACTORS."

## PART I. FINANCIAL INFORMATION

## ITEM 1. FINANCIAL STATEMENTS

## LIVEPERSON, INC.

CONDENSED CONSOLIDATED BALANCE SHEETS  
(IN THOUSANDS, EXCEPT SHARE AND PER SHARE DATA)

	June 30, 2009 (Unaudited)	December 31, 2008 (Note 1(B))
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$ 31,267	\$ 25,500
Accounts receivable, net of allowance for doubtful accounts of \$340 as of June 30, 2009 and December 31, 2008, respectively	7,824	7,574
Prepaid expenses and other current assets	1,719	1,706
Deferred tax assets, net	1,261	1,772
Total current assets	42,071	36,552
Property and equipment, net	8,894	7,473
Intangibles, net	3,161	4,319
Goodwill	23,903	24,388
Deferred tax assets, net	7,544	7,330
Deferred implementation costs	147	147
Security deposits	323	349
Other assets	1,489	1,390
Total assets	\$ 87,532	\$ 81,948
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
Current liabilities:		
Accounts payable	\$ 3,625	\$ 3,555
Accrued expenses	9,073	9,088
Deferred revenue	4,143	3,985
Total current liabilities	16,841	16,628
Deferred revenue, net of current	409	347
Other liabilities	1,489	1,390
Total liabilities	18,739	18,365
Commitments and contingencies		
Stockholders' equity:		
Preferred stock, \$.001 par value per share; 5,000,000 shares authorized, 0 shares issued and outstanding at June 30, 2009 and December 31, 2008	—	—
Common stock, \$.001 par value per share; 100,000,000 shares authorized, 47,691,532 shares issued and outstanding at June 30, 2009 and 47,357,017 shares issued and outstanding at December 31, 2008	48	47
Additional paid-in capital	183,692	180,869
Accumulated deficit	(114,790)	(117,195)
Accumulated other comprehensive loss	(157)	(138)
Total stockholders' equity	68,793	63,583

Total liabilities and stockholders' equity	\$	87,532	\$	81,948
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SEE ACCOMPANYING NOTES TO UNAUDITED CONDENSED  
CONSOLIDATED FINANCIAL STATEMENTS.

## LIVEPERSON, INC.

CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS  
(IN THOUSANDS, EXCEPT SHARE AND PER SHARE DATA)  
UNAUDITED

	Three Months Ended June 30,		Six Months Ended June 30,	
	2009	2008	2009	2008
Revenue	\$ 20,541	\$ 18,588	\$ 40,460	\$ 35,673
Operating expenses:				
Cost of revenue	5,228	5,234	9,513	10,120
Product development	3,138	3,503	5,839	6,577
Sales and marketing	6,908	6,443	13,412	12,241
General and administrative	3,157	3,455	6,679	6,635
Amortization of intangibles	272	391	544	782
Total operating expenses	18,703	19,026	35,987	36,355
Income (loss) from operations	1,838	(438)	4,473	(682)
Other income (expense):				
Financial income (expense)	23	37	(96)	(2)
Interest income	21	71	56	191
Total other income (expense), net	44	108	(40)	189
Income (loss) before provision for (benefit from) income taxes	1,882	(330)	4,433	(493)
Provision for (benefit from) income taxes	748	(139)	2,028	(90)
Net income (loss)	\$ 1,134	\$ (191)	\$ 2,405	\$ (403)
Basic net income (loss) per common share	\$ 0.02	\$ (0.00)	\$ 0.05	\$ (0.01)
Diluted net income (loss) per common share	\$ 0.02	\$ (0.00)	\$ 0.05	\$ (0.01)
Weighted average shares outstanding used in basic net income (loss) per common share calculation	47,611,657	47,182,068	47,540,614	47,537,385
Weighted average shares outstanding used in diluted net income (loss) per common share calculation	48,650,478	47,182,068	48,301,914	47,537,385

Income from operations for the three and six months ended June 30, 2009 includes stock-based compensation expense related to SFAS No. 123(R) in the amount of \$1,118 and \$2,279, respectively. Loss from operations for the three and six months ended June 30, 2008 includes stock-based compensation expense related to SFAS No. 123(R) in the amount of \$1,204 and \$2,164, respectively. See Note 1(E).

SEE ACCOMPANYING NOTES TO UNAUDITED CONDENSED  
CONSOLIDATED FINANCIAL STATEMENTS.

## LIVEPERSON, INC.

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS  
(IN THOUSANDS)  
UNAUDITED

	Six Months Ended June 30,	
	2009	2008
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>		
Net income (loss)	\$ 2,405	\$ (403)
Adjustments to reconcile net income (loss) to net cash provided by operating activities:		
Stock-based compensation expense	2,279	2,164
Depreciation	1,627	798
Amortization of intangibles	1,158	1,396
Deferred income taxes	297	(251)
Provision for doubtful accounts	—	68
<b>CHANGES IN OPERATING ASSETS AND LIABILITIES:</b>		
Accounts receivable	(250)	(707)
Prepaid expenses and other current assets	(2)	(313)
Deferred implementation costs	—	(52)
Security deposits	26	150
Accounts payable	278	1,545
Accrued expenses	541	(1,656)
Deferred revenue	220	865
Net cash provided by operating activities	8,579	3,604
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>		
Purchases of property and equipment, including capitalized software	(3,259)	(2,988)
Acquisition of Kasamba	—	(108)
Acquisition of Proficient	(81)	(104)
Net cash used in investing activities	(3,340)	(3,200)
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>		
Repurchase of common stock	(28)	(3,680)
Excess tax benefit from the exercise of employee stock options	305	—
Proceeds from issuance of common stock in connection with the exercise of options	267	516
Net cash provided by (used in) financing activities	544	(3,164)
Effect of foreign exchange rate changes on cash and cash equivalents	(16)	(12)
Net increase (decrease) in cash and cash equivalents	5,767	(2,772)
Cash and cash equivalents at the beginning of the period	25,500	26,222
Cash and cash equivalents at the end of the period	\$ 31,267	\$ 23,450

## Supplemental disclosure of non-cash investing activities:

During the six months ended June 30, 2009, the Company settled a pre-acquisition contingency resulting in a decrease in accrued expenses in the amount of \$566.



Cash flows from investing for the six months ended June 30, 2009 does not include the purchases of approximately \$65 of capitalized equipment related to the Company's colocation facility as the corresponding invoices are included in accounts payable at June 30, 2009, and therefore did not have an impact on cash flows for the period.

Cash flows from investing for the six months ended June 30, 2008 does not include the purchases of approximately \$1,400 of capitalized equipment related to the Company's colocation facility as the corresponding invoices are included in accounts payable at June 30, 2008, and therefore did not have an impact on cash flows for the period.

SEE ACCOMPANYING NOTES TO UNAUDITED CONDENSED  
CONSOLIDATED FINANCIAL STATEMENTS.

LIVEPERSON, INC.

NOTES TO UNAUDITED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

(IN THOUSANDS, EXCEPT SHARE AND PER SHARE DATA)

(1) SUMMARY OF OPERATIONS AND SIGNIFICANT ACCOUNTING POLICIES

(A) SUMMARY OF OPERATIONS

LivePerson, Inc. (the “Company” or “LivePerson”) was incorporated in the State of Delaware in 1995. The Company commenced operations in 1996. LivePerson provides online engagement solutions that facilitate real-time assistance and expert advice.

The Company’s primary revenue source is from the sale of the LivePerson services to businesses of all sizes. The Company also facilitates online transactions between independent service providers (“Experts”) who provide expert online advice to individual consumers (“Users”). Headquartered in New York City, the Company’s product development staff, help desk and online sales support are located in Israel. The Company also maintains sales and professional services offices in Atlanta and the United Kingdom.

(B) UNAUDITED CONDENSED CONSOLIDATED FINANCIAL INFORMATION

The accompanying condensed consolidated financial statements as of June 30, 2009 and for the three and six months ended June 30, 2009 and 2008 are unaudited. In the opinion of management, the unaudited condensed consolidated financial statements have been prepared on the same basis as the annual financial statements and reflect all adjustments, which include only normal recurring adjustments, necessary to present fairly the consolidated financial position of LivePerson as of June 30, 2009, and the consolidated results of operations and cash flows for the interim periods ended June 30, 2009 and 2008. The financial data and other information disclosed in these notes to the condensed consolidated financial statements related to these periods are unaudited. The results of operations for any interim period are not necessarily indicative of the results of operations for any other future interim period or for a full fiscal year. The condensed consolidated balance sheet at December 31, 2008 has been derived from audited consolidated financial statements at that date.

Certain information and note disclosures normally included in financial statements prepared in accordance with generally accepted accounting principles have been condensed or omitted pursuant to the rules and regulations of the Securities and Exchange Commission (the “SEC”). These unaudited interim condensed consolidated financial statements should be read in conjunction with the Company’s audited consolidated financial statements and notes thereto for the year ended December 31, 2008, included in the Company’s Annual Report on Form 10-K filed with the SEC on March 13, 2009.

The Company has evaluated subsequent events through August 6, 2009, which is the date the financial statements were available to be issued.

(C) RECLASSIFICATIONS

Certain prior year financial information has been reclassified to conform with fiscal 2009 financial statement presentation.

(D) REVENUE RECOGNITION

The majority of the Company's revenue is generated from monthly service revenues and related professional services from the sale of the LivePerson services. Because the Company provides its application as a service, the Company follows the provisions of SEC Staff Accounting Bulletin No. 104, "Revenue Recognition" and Emerging Issues Task Force Issue No. 00-21, "Revenue Arrangements with Multiple Deliverables". The Company charges a monthly fee, which varies by service and client usage. The majority of the Company's larger clients also pay a professional services fee related to implementation. The Company defers these implementation fees and associated direct costs and recognizes them ratably over the expected term of the client relationship upon commencement of the hosting services. The Company may also charge professional service fees related to additional training, business consulting and analysis in support of the LivePerson services.

The Company also sells certain of the LivePerson services directly via Internet download. These services are marketed as LivePerson Pro and LivePerson Contact Center for small and mid-sized businesses (“SMBs”), and are paid for almost exclusively by credit card. Credit card payments accelerate cash flow and reduce the Company’s collection risk, subject to the merchant bank’s right to hold back cash pending settlement of the transactions. Sales of LivePerson Pro and LivePerson Contact Center may occur with or without the assistance of an online sales representative, rather than through face-to-face or telephone contact that is typically required for traditional direct sales.

The Company recognizes monthly service revenue based upon the fee charged for the LivePerson services, provided that there is persuasive evidence of an arrangement, no significant Company obligations remain, collection of the resulting receivable is probable and the amount of fees to be paid is fixed or determinable. The Company’s service agreements typically have twelve month terms and, in some cases, are terminable or may terminate upon 30 to 90 days’ notice without penalty. When professional service fees provide added value to the customer on a standalone basis, the Company recognizes professional service fees upon completion and customer acceptance because they have established objective and reliable evidence of the fair value of the undelivered hosting services. If a professional services arrangement does not qualify for separate accounting, the Company recognizes the fees, and the related labor costs, ratably over a period of 36 months, representing the Company’s current estimate of the term of the client relationship.

For revenue generated from online transactions between Experts and Users, the Company recognizes revenue net of the expert fees in accordance with Emerging Issues Task Force (“EITF”) 99-19, “Reporting Revenue Gross as a Principle versus Net as an Agent” due to the fact that the Company performs as an agent without any risk of loss for collection. The Company collects a fee from the consumer and retains a portion of the fee, and then remits the balance to the Expert. Revenue from these transactions is recognized when there is persuasive evidence of an arrangement, no significant Company obligations remain, collection of the resulting receivable is probable and the amount of fees to be paid is fixed or determinable.

#### (E) STOCK-BASED COMPENSATION

The Company follows Statement of Financial Accounting Standards SFAS No. 123(R) “Share-Based Payment (revised 2004)” (“SFAS No. 123(R)”), which addresses the accounting for transactions in which an entity exchanges its equity instruments for goods or services, with a primary focus on transactions in which an entity obtains employee services in share-based payment transactions. SFAS No. 123(R) is a revision to SFAS No. 123, “Accounting for Stock-Based Compensation,” and supersedes Accounting Principles Board (“APB”) Opinion No. 25, “Accounting for Stock Issued to Employees,” and its related implementation guidance. SFAS No. 123(R) requires measurement of the cost of employee services received in exchange for an award of equity instruments based on the grant-date fair value of the award (with limited exceptions). Incremental compensation costs arising from subsequent modifications of awards after the grant date must be recognized.

The Company adopted SFAS No. 123(R) using the modified prospective transition method, which requires the application of the accounting standard as of January 1, 2006. The Company’s Consolidated Financial Statements as of and for the three and six months ended June 30, 2009 and 2008 reflect the impact of SFAS No. 123(R). SFAS No. 123(R) requires companies to estimate the fair value of share-based payment awards on the date of grant using an option-pricing model. The value of the portion of the award that is ultimately expected to vest is recognized as expense over the requisite service periods in the Company’s Consolidated Statements of Operations. Stock-based compensation recognized in the Company’s Consolidated Statements of Operations for the three and six months ended June 30, 2009 and 2008 includes compensation expense for share-based awards granted prior to, but not fully vested as of January 1, 2006 based on the grant date fair value estimated in accordance with SFAS No. 123 as well as compensation expense for share-based awards granted subsequent to January 1, 2006 in accordance with SFAS No. 123(R). The Company currently uses the Black-Scholes option pricing model to determine grant date fair value.



The following table summarizes stock-based compensation expense related to employee stock options under SFAS No. 123(R) included in Company's Statements of Operations for the three and six months ended June 30, 2009 and 2008:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2009	2008	2009	2008
Cost of revenue	\$ 207	\$ 161	\$ 366	\$ 275
Product development expense	372	422	673	714
Sales and marketing expense	292	300	600	589
General and administrative expense	247	321	640	586
Total stock based compensation included in operating expenses	\$ 1,118	\$ 1,204	\$ 2,279	\$ 2,164

The per share weighted average fair value of stock options granted and assumed during the three and six months ended June 30, 2009 was \$1.73 and \$1.15, respectively. The per share weighted average fair value of stock options granted and assumed during the three and six months ended June 30, 2008 was \$1.97. The fair value of each option grant is estimated on the date of grant using the Black-Scholes option-pricing model with the following weighted average assumptions:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2009	2008	2009	2008
Dividend yield	0.0%	0.0%	0.0%	0.0%
Risk-free interest rate	3.2%-3.9%	1.9%-3.9%	2.8%-3.9%	1.9%-3.9%
Expected life (in years)	5.0	4.9	5.0	4.2-4.9
Historical volatility	65.0%-65.6%	69.9%-70.5%	65.0%-68.2%	69.9%-71.5%

During 1998, the Company established the Stock Option and Restricted Stock Purchase Plan (the "1998 Plan"). Under the 1998 Plan, the Board of Directors could issue incentive stock options or nonqualified stock options to purchase up to 5,850,000 shares of common stock. The 2000 Stock Incentive Plan (the "2000 Plan") succeeded the 1998 Plan. Under the 2000 Plan, the options which had been outstanding under the 1998 Plan were incorporated in the 2000 Plan increasing the number of shares available for issuance under the plan by approximately 4,150,000, thereby reserving for issuance 10,000,000 shares of common stock in the aggregate. Pursuant to the provisions of the 2000 Plan, the number of shares of common stock available for issuance thereunder automatically increases on the first trading day in each calendar year by an amount equal to three percent (3%) of the total number of shares of the Company's common stock outstanding on the last trading day of the immediately preceding calendar year, but in no event shall such annual increase exceed 1,500,000 shares. As of December 31, 2008, approximately 12,385,000 shares of common stock were reserved for issuance under the 2000 Plan (taking into account all option exercises through December 31, 2008).

The Company established the 2009 Stock Incentive Plan (the "2009 Plan") as a successor to the 2000 Plan. Under the 2009 Plan, the options which had been outstanding under the 2000 Plan were incorporated into the 2009 Plan and the Company increased the number of shares available for issuance under the plan by 6,000,000, thereby reserving for issuance 19,567,744 shares of common stock in the aggregate. Options to acquire common stock granted thereunder have ten-year terms. As of June 30, 2009, approximately 19,528,000 shares of common stock were reserved for issuance under the 2009 Plan (taking into account all option exercises through June 30, 2009). As of June 30, 2009, there was \$8,949 of total unrecognized compensation cost related to nonvested share-based compensation arrangements. That cost, as of June 30, 2009, is expected to be recognized over a weighted average period of approximately 1.9 years.



A summary of the Company's stock option activity and weighted average exercise prices is as follows:

	Options	Weighted Average Exercise Price
Options outstanding at December 31, 2008	9,939,045	\$ 3.67
Options granted	1,505,000	1.97
Options exercised	(340,738)	0.69
Options cancelled	(660,677)	3.49
Options outstanding at June 30, 2009	10,442,630	3.51
Options exercisable at June 30, 2009	5,961,027	\$ 3.53

The total intrinsic value of stock options exercised during the period ended June 30, 2009 was approximately \$540. The total intrinsic value of options exercisable at June 30, 2009 was approximately \$6,338. The total intrinsic value of options expected to vest is approximately \$4,576.

A summary of the status of the Company's nonvested shares as of December 31, 2008, and changes during the six months ended June 30, 2009 is as follows:

	Shares	Weighted Average Grant Date Fair Value
Nonvested Shares at December 31, 2008	4,471,251	\$ 2.59
Granted	1,505,000	1.15
Vested	(1,137,923)	2.75
Cancelled	(356,725)	2.33
Nonvested Shares at June 30, 2009	4,481,603	\$ 2.09

#### (F) BASIC AND DILUTED NET INCOME PER SHARE

The Company calculates earnings per share in accordance with the provisions of SFAS No. 128, "Earnings Per Share ("EPS")," and the guidance of SEC Staff Accounting Bulletin ("SAB") No. 98. Under SFAS No. 128, basic EPS excludes dilution for common stock equivalents and is computed by dividing net income or loss attributable to common shareholders by the weighted average number of common shares outstanding for the period. All options, warrants or other potentially dilutive instruments issued for nominal consideration are required to be included in the calculation of basic and diluted net income attributable to common stockholders. Diluted EPS is calculated using the treasury stock method and reflects the potential dilution that could occur if securities or other contracts to issue common stock were exercised or converted into common stock and resulted in the issuance of common stock.

Diluted net income per common share for the three and six months ended June 30, 2009 includes the effect of options to purchase 4,204,317 and 1,864,067 shares, respectively, of common stock with a weighted average exercise price of \$1.83 and \$1.31, respectively. Diluted net income per common share for the three and six months ended June 30, 2008 does not include the effect of assumed exercised options or warrants because the Company reported a net loss from continuing operations and, therefore, all common stock equivalents are anti-dilutive. Diluted net income per common share for the three and six months ended June 30, 2008 does not include the effect of options and warrants to purchase 6,724,454 and 6,284,516 shares of common stock.





A reconciliation of shares used in calculating basic and diluted earnings per share follows:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2009	2008	2009	2008
Basic	47,611,657	47,182,068	47,540,614	47,537,385
Effect of assumed exercised options and warrants	1,038,821	-	761,300	-
Diluted	48,650,478	47,182,068	48,301,914	47,537,385

#### (G) SEGMENT REPORTING

The Company accounts for its segment information in accordance with the provisions of SFAS No. 131, “Disclosures About Segments of an Enterprise and Related Information” (“SFAS No. 131”). SFAS No. 131 establishes annual and interim reporting standards for operating segments of a company. SFAS No. 131 requires disclosures of selected segment-related financial information about products, major customers, and geographic areas based on the Company’s internal accounting methods. Due to the acquisition of Kasamba Inc. in October 2007, the Company is organized into two operating segments for purposes of making operating decisions and assessing performance. The Company may reorganize its operations in the future when the integration of its products and services are complete. The Business segment supports and manages real-time online interactions – chat, voice/click-to-call, email and self-service/knowledgebase and sells its products and services to global corporations of all sizes. The Consumer segment facilitates online transactions between Experts and Users and sells its services to consumers. Both segments currently generate their revenue primarily in the U.S. The chief operating decision-makers evaluate performance, make operating decisions, and allocate resources based on the operating income of each segment. The reporting segments follow the same accounting policies used in the preparation of the Company’s consolidated financial statements and are described in the summary of significant accounting policies. The Company allocates cost of revenue, sales and marketing and amortization of purchased intangibles to the segments, but it does not allocate product development, general and administrative, non cash-compensation expenses and income taxes because management does not use this information to measure performance of the operating segments. There are currently no inter-segment sales.

Summarized financial information by segment for the three months ended June 30, 2009, based on the Company’s internal financial reporting system utilized by the Company’s chief operating decision makers, follows:

	Consolidated	Corporate	Business	Consumer
Revenue:				
Hosted services — Business	\$ 16,943	\$ —	\$ 16,943	\$ —
Hosted services — Consumer	2,878	—	—	2,878
Professional services	720	—	720	—
Total revenue	20,541	—	17,663	2,878
Cost of revenue	5,228	—	4,340	888
Sales and marketing	6,908	—	5,005	1,903
Amortization of intangibles	272	—	200	72
Unallocated corporate expenses	6,295	6,295	—	—
Operating income (loss)	\$ 1,838	\$ (6,295)	\$ 8,118	\$ 15

Summarized financial information by segment for the three months ended June 30, 2008, based on the Company's internal financial reporting system utilized by the Company's chief operating decision makers, follows:

	Consolidated	Corporate	Business	Consumer
<b>Revenue:</b>				
Hosted services — Business	\$ 14,779	\$ —	\$ 14,779	\$ —
Hosted services — Consumer	2,801	—	—	2,801
Professional services	1,008	—	1,008	—
<b>Total revenue</b>	<b>18,588</b>	<b>—</b>	<b>15,787</b>	<b>2,801</b>
Cost of revenue	5,234	—	4,258	976
Sales and marketing	6,443	—	4,701	1,742
Amortization of intangibles	391	—	242	149
Unallocated corporate expenses	6,958	6,958	—	—
Operating (loss) income	\$ (438)	\$ (6,958)	\$ 6,586	\$ (66)

Revenues attributable to domestic and foreign operations for the three months ended June 30, 2009 and 2008, follows:

	June 30,	
	2009	2008
United States	\$ 15,841	\$ 14,379
United Kingdom	2,218	2,112
Other Countries	2,482	2,097
<b>Total revenue</b>	<b>\$ 20,541</b>	<b>\$ 18,588</b>

Summarized financial information by segment for the six months ended June 30, 2009, based on the Company's internal financial reporting system utilized by the Company's chief operating decision makers, follows:

	Consolidated	Corporate	Business	Consumer
<b>Revenue:</b>				
Hosted services — Business	\$ 33,658	\$ —	\$ 33,658	\$ —
Hosted services — Consumer	5,407	—	—	5,407
Professional services	1,395	—	1,395	—
<b>Total revenue</b>	<b>40,460</b>	<b>—</b>	<b>35,053</b>	<b>5,407</b>
Cost of revenue	9,513	—	7,766	1,747
Sales and marketing	13,412	—	9,909	3,503
Amortization of intangibles	544	—	400	144
Unallocated corporate expenses	12,518	12,518	—	—
Operating income (loss)	\$ 4,473	\$ (12,518)	\$ 16,978	\$ 13

Summarized financial information by segment for the six months ended June 30, 2008, based on the Company's internal financial reporting system utilized by the Company's chief operating decision makers, follows:

	Consolidated	Corporate	Business	Consumer
<b>Revenue:</b>				
Hosted services — Business	\$ 28,488	\$	\$ 28,488	\$ —
Hosted services — Consumer	5,485		—	5,485
Professional services	1,700		1,700	—
<b>Total revenue</b>	<b>35,673</b>		<b>30,188</b>	<b>5,485</b>
Cost of revenue	10,120		8,252	1,868
Sales and marketing	12,241		8,784	3,457
Amortization of intangibles	782		484	298
Unallocated corporate expenses	13,212	13,212	—	—
Operating (loss) income	\$ (682)	\$ (13,212)	\$ 12,668	\$ (138)

Revenues attributable to domestic and foreign operations for the six months ended June 30, 2009 and 2008, follows:

	June 30,	
	2009	2008
United States	\$ 31,402	\$ 27,711
United Kingdom	4,396	3,885
Other Countries	4,662	4,077
<b>Total revenue</b>	<b>\$ 40,460</b>	<b>\$ 35,673</b>

Long-lived assets by geographic region follows:

	June 30, 2009	December 31, 2008
United States	\$ 31,192	\$ 29,664
Israel	14,269	15,732
<b>Total long-lived assets</b>	<b>\$ 45,461</b>	<b>\$ 45,396</b>

#### (H) GOODWILL AND INTANGIBLE ASSETS

The changes in the carrying amount of goodwill for the six months ended June 30, 2009 are as follows:

	Total	Business	Consumer
Balance as of December 31, 2008	\$ 24,388	\$ 15,798	\$ 8,590
Adjustments to goodwill:			
Contingent earnout payments	81	81	—
Settlement of pre-acquisition contingency	(566)	—	(566)
<b>Balance as of June 30, 2009</b>	<b>\$ 23,903</b>	<b>\$ 15,879</b>	<b>\$ 8,024</b>

The changes in the carrying amount of goodwill for the year ended December 31, 2008 are as follows:

	Total	Business	Consumer
Balance as of December 31, 2007	\$ 51,684	\$ 18,744	\$ 32,940
Adjustments to goodwill:			
Impairment	(23,501)	—	(23,501)
Release of valuation reserve on deferred tax asset	(3,867)	(3,025)	(842)
Other	72	79	(7)
Balance as of December 31, 2008	\$ 24,388	\$ 15,798	\$ 8,590

Intangible assets are summarized as follows (see Note 3):

#### Acquired Intangible Assets

	Gross Carrying Amount	As of June 30, 2009	
		Weighted Average Amortization Period	Accumulated Amortization
Amortizing intangible assets:			
Technology	\$ 5,410	3.8 years	2,648
Customer contracts/customer lists	2,400	3.0 years	2,361
Trade names	630	3.0 years	368
Non-compete agreements	410	1.2 years	410
Other	235	3.0 years	137
Total	\$ 9,085		\$ 5,924

	Gross Carrying Amount	As of December 31, 2008	
		Weighted Average Amortization Period	Accumulated Amortization
Amortizing intangible assets:			
Technology	\$ 5,410	3.8 years	2,034
Customer contracts/customer lists	2,400	3.0 years	1,961
Trade names	630	3.0 years	263
Non-compete agreements	410	1.2 years	410
Other	235	3.0 years	98
Total	\$ 9,085		\$ 4,766

Amortization expense is calculated on a straight-line basis over the estimated useful life of the asset. Aggregate amortization expense for intangible assets was \$579 and \$1,158 for the three and six months ended June 30, 2009, respectively, and \$698 and \$1,396 for the three and six months ended June 30, 2008, respectively. Estimated amortization expense for the next five years is: \$797 in 2009, \$1,444 in 2010, \$921 in 2011, and \$0 in 2012 and 2013.

(I) RECENTLY ISSUED ACCOUNTING PRONOUNCEMENTS

In July 2009, the FASB issued Statement No. 168, “The FASB Accounting Standards Codification and the Hierarchy of Generally Accepted Accounting Principles — a replacement of FASB Statement No. 162” (“SFAS No. 168”). SFAS No. 168 established the FASB Accounting Standards Codification as the single source of authoritative U.S. generally accepted accounting principles (U.S. GAAP) recognized by the FASB to be applied by nongovernmental entities. SFAS No. 168 will supersede all existing non-SEC accounting and reporting standards. All other nongrandfathered non-SEC accounting literature not included in SFAS No. 168 will become nonauthoritative. Following SFAS No. 168, the FASB will not issue new standards in the form of Statements, FASB Staff Positions, or Emerging Issues Task Force Abstracts. Instead, the FASB will issue Accounting Standards Updates, which will serve only to: (a) update the Codification; (b) provide background information about the guidance; and (c) provide the bases for conclusions on the change(s) in the Codification. SFAS No. 168 and the Codification are effective for financial statements issued for interim and annual periods ending after September 15, 2009. The adoption of SFAS No. 168 is not expected to have a material impact on the Company’s consolidated financial statements.

In May 2009, the FASB issued Statement No. 165, “Subsequent Events” (SFAS No. 165). SFAS No. 165 established general standards of accounting for and disclosure of events that occur after the balance sheet date but before financial statements are issued or are available to be issued. Specifically, SFAS No. 165 provides; (a) the period after the balance sheet date during which management of a reporting entity should evaluate events or transactions that may occur for potential recognition or disclosure in the financial statements; (b) the circumstances under which an entity should recognize events or transactions occurring after the balance sheet date in its financial statements; and (c) the disclosures that an entity should make about events or transactions that occurred after the balance sheet date. SFAS No. 165 is effective for interim or annual financial periods ending after June 15, 2009, and shall be applied prospectively. The adoption of this FASB did not have a material impact on the Company’s consolidated financial statements.

In April 2009, the FASB issued FASB Staff Position (“FSP”) 107-1 and Accounting Principles Board (“APB”) 28-1, Interim Disclosures about Fair Value of Financial Instruments (“FSP 107-1”). FSP 107-1 amends SFAS No. 107, Disclosures About Fair Value of Financial Instrument, to require disclosures about fair value of financial instruments for interim reporting periods of publicly traded companies as well as in annual financial statements. FSP 107-1 also amends APB Opinion No. 28, Interim Financial Reporting, to require those disclosures in summarized financial information at interim reporting periods. FSP 107-1 is effective for interim reporting periods ending after June 15, 2009, with early adoption permitted for periods ending after March 15, 2009. FSP 107-1 does not require disclosures for earlier periods presented for comparative purposes at initial adoption. In periods after initial adoption, FSP 107-1 requires comparative disclosures only for periods ending after initial adoption. The adoption of this FSP did not have a material impact on the Company’s consolidated financial statements.

In April 2009, the FASB issued FSP 141(R) -1, “Accounting for Assets Acquired and Liabilities assumed in a Business Combination That Arise from Contingencies — an amendment of FASB Statement No. 141 (Revised December 2007), Business Combinations” (“FSP 141(R) -1”). FSP 141(R) -1 addresses application issues raised by preparers, auditors, and members of the legal profession on initial recognition and measurement, subsequent measurement and accounting, and disclosure of assets and liabilities arising from contingencies in a business combination. FSP 141(R) -1 is effective for assets or liabilities arising from contingencies in business combinations for which the acquisition date is on or after the beginning of the first annual reporting period beginning on or after December 15, 2008. FSP 141(R) -1 will have an impact on the Company’s accounting for any future acquisitions and its consolidated financial statements.

In April 2008, the FASB issued FSP 142-3, “Determination of the Useful Life of Intangible Assets” (“FSP 142-3”). FSP 142-3 amends the factors that should be considered in developing renewal or extension assumptions used to determine the useful life of a recognized intangible asset under SFAS No. 142, “Goodwill and Other Intangible Assets”. FSP 142-3

is effective for fiscal years beginning after December 15, 2008. The adoption of this FSP did not have a material impact on the Company's consolidated financial statements.

In March 2008, the FASB issued Statement No. 161, “Disclosures about Derivative Instruments and Hedging Activities — an amendment of FASB Statement No. 133” (“SFAS No. 161”). SFAS No. 161, requires enhanced disclosures regarding derivatives and hedging activities, including: (a) the manner in which an entity uses derivative instruments; (b) the manner in which derivative instruments and related hedged items are accounted for under Statement of Financial Accounting Standards No. 133, “Accounting for Derivative Instruments and Hedging Activities”; and (c) the effect of derivative instruments and related hedged items on an entity’s financial position, financial performance, and cash flows. SFAS No. 161 is effective for financial statements issued for fiscal years and interim periods beginning after November 15, 2008. As SFAS No. 161 relates specifically to disclosures, it currently has no impact on the Company’s consolidated financial statements.

In December 2007, the FASB issued Statement No. 141 (revised 2007), “Business Combinations” (“SFAS No. 141(R)”). SFAS No. 141(R) established principles and requirements for how an acquirer recognizes and measures in its financial statements the identifiable assets acquired, the liabilities assumed, any noncontrolling interest in the acquiree, and the goodwill acquired. SFAS No. 141(R) also established disclosure requirements to enable the evaluation of the nature and financial effects of the business combination. SFAS No. 141(R) is effective for fiscal years beginning after December 15, 2008. SFAS No. 141(R) will have an impact on its accounting for any future acquisitions and its consolidated financial statements.

In September 2006, the FASB issued Statement No. 157, "Fair Value Measurements" ("SFAS No. 157"), which defines fair value, establishes a framework for measuring fair value and expands disclosures about fair value measurements. SFAS No. 157 applies to other accounting pronouncements that require or permit fair value measurements, but does not require any new fair value measurements. SFAS No. 157 is effective for financial statements issued for fiscal years beginning after November 15, 2007 and interim periods within those fiscal years, with the exception of all non-financial assets and liabilities which will be effective for years beginning after November 15, 2008. The Company adopted the required provisions of SFAS No. 157 that became effective in its first quarter of 2008. The adoption of these provisions did not have a material impact on the Company’s consolidated financial statements. In February 2008, the FASB issued FASB Staff Position No. FAS 157-2, “Effective Date of FASB Statement No. 157” (“FSP 157-2”). FSP 157-2 delays the effective date of SFAS No. 157 for nonfinancial assets and nonfinancial liabilities, except for certain items that are recognized or disclosed at fair value in the financial statements on a recurring basis (at least annually). In October 2008, the FASB issued FASB Staff Position No. FAS 157-3, “Determining the Fair Value of a Financial Asset When the Market for That Asset Is Not Active” (“FSP 157-3”). FSP 157-3 applies to financial assets within the scope of accounting pronouncements that require or permit fair value measurements in accordance with SFAS No. 157. This FSP clarifies the application of SFAS No. 157 in determining the fair values of assets or liabilities in a market that is not active. In April 2009, the FASB issued FSP No. FAS 157-4, “Determining Fair Value When the Volume and Level of Activity for the Asset or Liability Have Significantly Decreased and Identifying Transactions That Are Not Orderly” (“FSP 157-4”). FSP 157-4 does not change the definition of fair value as detailed in FAS 157, but provides additional guidance for estimating fair value in accordance with FAS 157 when the volume and level of activity for the asset or liability have significantly decreased. The provisions of FSP 157-4 are effective for interim and annual reporting periods ending after June 15, 2009, with early adoption permitted for periods ending after March 15, 2009. If early adoption is elected for either FAS 115-2 or FAS 107-1 and APB 28-1, FSP 157-4 must also be adopted early. There were no non-financial assets and non-financial liabilities requiring initial measurement or subsequent remeasurement during the second quarter of 2009.

#### (J) FAIR VALUE OF FINANCIAL INSTRUMENTS

The fair value of a financial instrument is the amount at which the instrument could be exchanged in a current transaction between willing parties. Cash and cash equivalents, accounts receivable, security deposits, accounts payable and deferred revenue carrying amounts approximate fair value because of the short time maturity of these instruments.





## (2) BALANCE SHEET COMPONENTS

Property and equipment is summarized as follows:

	June 30, 2009	December 31, 2008
Computer equipment and software	\$ 14,702	\$ 11,690
Furniture, equipment and building improvements	777	741
	15,479	12,431
Less accumulated depreciation	6,585	4,958
Total	\$ 8,894	\$ 7,473

Accrued expenses consist of the following:

	June 30, 2009	December 31, 2008
Payroll and other employee related costs	\$ 5,046	\$ 5,536
Professional services and consulting and other vendor fees	2,264	2,879
Sales commissions	408	256
Other	1,355	417
Total	\$ 9,073	\$ 9,088

## (3) ASSET ACQUISITIONS

## Proficient Systems

On July 18, 2006, the Company acquired Proficient Systems, Inc. (“Proficient”), a provider of hosted proactive chat solutions that help companies generate revenue on their web sites. This transaction was accounted for under the purchase method of accounting and, accordingly, the operating results of Proficient were included in the Company’s consolidated results of operations from the date of acquisition. The acquisition added several U.K. based financial services clients and provided an innovative product marketing team. The Company incurred additional costs related to litigation resulting from an earn-out dispute in the amount of \$79, net and reduced the valuation reserve on acquired net operating losses in the amount of \$3,025, resulting in a net decrease in goodwill in the amount of \$2,946 in the twelve months ended December 31, 2008. The Company incurred additional costs related to the earn-out litigation in the amount of \$81, resulting in an increase in goodwill in the six months ended June 30, 2009.

Based on the achievement of certain revenue targets as of March 31, 2007, LivePerson was contingently required to issue up to an additional 2,050,000 shares of common stock. Based on these targets, the Company issued 1,127,985 shares of common stock valued at \$8,894, based on the quoted market price of the Company’s common stock on the date the contingency was resolved, and made a cash payment of \$20 related to this contingency. At March 31, 2007, the value of these shares has been allocated to goodwill with a corresponding increase in equity. All 1,127,985 shares are included in the weighted average shares outstanding used in basic and diluted net income per common share as of March 31, 2007. In accordance with the purchase agreement, the earn-out consideration is subject to review by Proficient’s Shareholders’ Representative. On July 31, 2007, the Company was served with a complaint filed in the United States District Court for the Southern District of New York by the Shareholders’ Representative of Proficient. The complaint filed by the Shareholders’ Representative sought certain documentation relating to calculation of the earn-out consideration, and demands payment of damages on the grounds that substantially all of the remaining contingently issuable earn-out shares should have been paid. The Company believes the claims are without merit, intends to vigorously defend against this lawsuit, and does not currently expect that the calculation of the total shares issued will differ significantly from the amount issued to date.

The components of the intangible assets are as follows:

	Weighted Average Useful Life (months)	Amount
Customer relationships	36	\$ 2,400
Technology	18	500
Non-compete agreements	24	100
		\$ 3,000

The net intangible assets of \$39 and \$439 are included in “Assets - Intangibles, net” on the Company’s June 30, 2009 and December 31, 2008 balance sheets, respectively.

#### Kasamba Inc.

On October 3, 2007, the Company acquired Kasamba Inc. (“Kasamba”), an online provider of live expert advice delivered to consumers via real-time chat. This transaction was accounted for under the purchase method of accounting and, accordingly, the operating results of Kasamba were included in the Company’s consolidated results of operations from October 3, 2007. The acquisition represents the Company’s initial expansion beyond its historical business-to-business focus into the business-to-consumer market, and is also expected to extend the value the Company delivers to its growing base of business customers through a community that connects consumers with experts in a range of categories. During the twelve months ended December 31, 2008, the Company reduced accrued acquisitions costs in the amount of \$7, reduced the valuation reserve on acquired net operating losses in the amount of \$842 and recorded an impairment charge in the amount of \$23,501, resulting in a decrease in goodwill in the amount of \$24,350. During the six months ended June 30, 2009, the Company settled a pre-acquisition contingency resulting in a \$566 decrease in goodwill.

The components of the intangible assets are as follows:

	Weighted Average Useful Life (months)	Amount
Technology	48	\$ 4,910
Trade name	36	630
Expert network	36	235
Non-compete agreements	12	310
<b>Total</b>		<b>\$ 6,085</b>

The net intangible assets of \$3,122 and \$3,880 are included in “Assets - Intangibles, net” on the Company’s June 30, 2009 and December 31, 2008 balance sheets, respectively.

#### (4) FAIR VALUE MEASUREMENTS

Effective January 1, 2008, the Company adopted the Financial Accounting Standards Board (“FASB”) Statement No. 157, Fair Value Measurements (“FAS 157”), for financial assets and liabilities. This statement defines fair value, establishes a framework for measuring fair value and expands the related disclosure requirements. The statement indicates, among other things, that a fair value measurement assumes a transaction to sell an asset or transfer a liability occurs in the principal market for the asset or liability or, in the absence of a principal market, the most advantageous market for the asset or liability. As noted in Note 1(h) above, the Company adopted the provisions of FAS 157 with respect to its non-financial assets and liabilities during the first quarter of fiscal 2009. However, there were no non-financial assets or liabilities requiring initial measurement or subsequent remeasurement during the second quarter of 2009.

In order to increase consistency and comparability in fair value measurements, SFAS No. 157 establishes a hierarchy for observable and unobservable inputs used to measure fair value into three broad levels, which are described below:

- Level 1: Quoted prices (unadjusted) in active markets that are accessible at the measurement date for assets or liabilities. The fair value hierarchy gives the highest priority to Level 1 inputs.
- Level 2: Observable prices that are based on inputs not quoted on active markets, but corroborated by market data.
- Level 3: Unobservable inputs are used when little or no market data is available. The fair value hierarchy gives the lowest priority to Level 3 inputs.

In determining fair value, the Company utilizes valuation techniques that maximize the use of observable inputs and minimize the use of unobservable inputs to the extent possible as well as considers counterparty credit risk in its assessment of fair value.

On a nonrecurring basis, the Company uses fair value measures when analyzing asset impairment. Long-lived tangible assets are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. If it is determined such indicators are present and the review indicates that the assets will not be fully recoverable, based on undiscounted estimated cash flows over the remaining amortization periods, their carrying values are reduced to estimated fair value. The Company uses an Income approach and inputs that constitute level 3. During the third quarter of each year, the Company evaluates goodwill and indefinite-lived intangibles for impairment at the reporting unit level. The Company uses a discounted cash flow analysis to determine the fair market value of the reporting unit. This measurement would be classified based on level 3 input.

#### (5) COMMITMENTS AND CONTINGENCIES

The Company leases facilities and certain equipment under agreements accounted for as operating leases. These leases generally require the Company to pay all executory costs such as maintenance and insurance. Rental expense for operating leases for the three and six months ended June 30, 2009 was approximately \$1,182 and \$2,223, respectively. Rental expense for operating leases for the three and six months ended June 30, 2008 was approximately \$636 and \$1,195, respectively.

#### (6) LEGAL MATTERS

On July 31, 2007, the Company was served with a complaint filed in the United States District Court for the Southern District of New York by the Shareholders' Representative of Proficient Systems, Inc. In connection with the July 2006 acquisition of Proficient, the Company was contingently required to issue up to 2,050,000 shares of common stock based on the terms of an earn-out provision in the merger agreement. In accordance with the terms of the earn-out provision, the Company issued 1,127,985 shares of LivePerson common stock in the second quarter of 2007 to the former shareholders of Proficient. The complaint filed by the Shareholders' Representative sought certain documentation relating to calculation of the earn-out consideration, and demands payment of damages on the grounds that substantially all of the remaining contingently issuable earn-out shares should have been paid. The Company believes the claims are without merit, intends to vigorously defend against this lawsuit, and does not currently expect that the calculation of the total shares issued will differ significantly from the amount issued to date.

On January 29, 2008, the Company filed a complaint in the United States District Court for the District of Delaware against NextCard, LLC and Marshall Credit Strategies, LLC, seeking a declaratory judgment that a patent purportedly owned by the defendants is invalid and not infringed by the Company's products. On April 30, 2008, NextCard, LLC filed a complaint in the United States District Court for the Eastern District of Texas, concerning the same subject matter as the Delaware case, asserting patent infringement by the Company, and seeking monetary damages and an injunction. The parties entered into a settlement agreement in August 2009. The settlement terms under the agreement are confidential, and will not have a material effect on the Company's results of operations, financial

condition or cash flows.

On May 15, 2009, the Company filed a complaint in the United States District Court for the Southern District of New York against InstantService, Inc. asserting claims that InstantService infringes the U.S. Patent Nos. 6,519,628 and 7,526,439 owned by the Company. The Company is seeking damages for infringement and an injunction against future infringement of its patents. On June 2, 2009, the Company filed a first amended complaint seeking a declaratory judgment that a patent purportedly owned by InstantService is invalid and not infringed by the Company's products. InstantService has not answered the complaint and has not filed counterclaims, but did file a motion to dismiss one of four causes of action. The case is in its early stages. The Company believes its claims have merit and that InstantService's motion to dismiss is without merit. The Company intends to vigorously pursue its claims.

The Company is not currently party to any other legal proceedings. From time to time, the Company may be subject to various claims and legal actions arising in the ordinary course of business.

## (7) SUBSEQUENT EVENTS

On August 3, 2009, the Company entered into an asset purchase agreement to acquire two patents. The patents grant the Company proprietary rights for certain applications of its technology. The patents will be amortized over their remaining life of 11 years as the patented technology is expected to generate cash flow for at least that period.

## ITEM 2.MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

### CRITICAL ACCOUNTING POLICIES AND ESTIMATES

#### GENERAL

Our discussion and analysis of our financial condition and results of operations are based upon our consolidated financial statements, which are prepared in conformity with accounting principles generally accepted in the United States of America. As such, we are required to make certain estimates, judgments and assumptions that management believes are reasonable based upon the information available. We base these estimates on our historical experience, future expectations and various other assumptions that we believe to be reasonable under the circumstances, the results of which form the basis for our judgments that may not be readily apparent from other sources. These estimates and assumptions affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the dates of the consolidated financial statements and the reported amounts of revenue and expenses during the reporting periods. These estimates and assumptions relate to estimates of the carrying amount of goodwill, intangibles, stock based-compensation, valuation allowances for deferred income taxes, accounts receivable, the expected term of a client relationship, accruals and other factors. We evaluate these estimates on an ongoing basis. Actual results could differ from those estimates under different assumptions or conditions, and any differences could be material.

#### OVERVIEW

LivePerson provides online engagement solutions that facilitate real-time assistance and expert advice. Connecting businesses and independent experts with individual consumers seeking help on the Web, our hosted software platform creates more relevant, compelling and personalized online experiences. We were incorporated in the State of Delaware in November 1995 and the LivePerson service was introduced initially in November 1998.

The Company is organized into two operating segments. The Business segment facilitates real-time online interactions — chat, voice/click-to-call, email and self-service/knowledgebase for global corporations of all sizes. The Consumer segment facilitates online transactions between independent Experts and individual consumers.

On July 18, 2006, we acquired Proficient Systems, Inc., (“Proficient”) a provider of hosted proactive chat solutions that help companies generate revenue on their websites. The acquisition added several U.K. based financial services clients and provided an innovative product marketing team. Under the terms of the agreement, we acquired all of the outstanding capital stock of Proficient in exchange for 2.0 million shares of our common stock, valued at \$9.9 million, paid at closing, and up to an additional 2.05 million shares based on the achievement of certain revenue targets as of March 31, 2007. Based on these targets, we issued approximately 1.1 million additional shares valued at \$8.9 million. At March 31, 2007, the value of these shares has been allocated to goodwill and we have included these shares in the weighted average shares outstanding used in basic and diluted net income per share. The net intangibles of \$39,000

and \$439,000 are included in “Assets - Intangibles, net” on our June 30, 2009 and December 31, 2008 balance sheets, respectively.



On October 3, 2007, we acquired Kasamba Inc., (“Kasamba”) a facilitator of online transactions between service Experts who provide online advice to consumers for total consideration of approximately \$35.9 million. The acquisition accelerated our expansion into the business-to-consumer market, and is expected to extend the value we deliver to our growing base of business customers through a community that will connect consumers with Experts in a range of categories. Under the terms of the agreement, we acquired all of the outstanding capital stock of Kasamba in exchange for 4,130,776 shares of our common stock, \$9.0 million in cash and the assumption of 623,824 Kasamba options. The net intangibles of \$3.1 and \$3.9 million are included in “Assets - Intangibles, net” on our June 30, 2009 and December 31, 2008 balance sheets, respectively.

The significant accounting policies which we believe are the most critical to aid in fully understanding and evaluating the reported consolidated financial results include the following:

#### REVENUE RECOGNITION

The majority of our revenue is generated from monthly service revenues and related professional services from the sale of the LivePerson services. Because we provide our application as a service, we follow the provisions of SEC Staff Accounting Bulletin No. 104, “Revenue Recognition” and Emerging Issues Task Force Issue No. 00-21, “Revenue Arrangements with Multiple Deliverables”. We charge a monthly fee, which varies by service and client usage. The majority of our larger clients also pay a professional services fee related to implementation. We defer these implementation fees and associated direct costs and recognize them ratably over the expected term of the client relationship upon commencement of the hosting services. We may also charge professional service fees related to additional training, business consulting and analysis in support of the LivePerson services.

We also sell certain of the LivePerson services directly via Internet download. These services are marketed as LivePerson Pro and LivePerson Contact Center for small and mid-sized businesses (“SMBs”), and are paid for almost exclusively by credit card. Credit card payments accelerate cash flow and reduce our collection risk, subject to the merchant bank’s right to hold back cash pending settlement of the transactions. Sales of LivePerson Pro and LivePerson Contact Center may occur with or without the assistance of an online sales representative, rather than through face-to-face or telephone contact that is typically required for traditional direct sales.

We recognize monthly service revenue based upon the fee charged for the LivePerson services, provided that there is persuasive evidence of an arrangement, no significant Company obligations remain, collection of the resulting receivable is probable and the amount of fees to be paid is fixed or determinable. Our service agreements typically have twelve month terms and are terminable or may terminate upon 30 to 90 days’ notice without penalty. When professional service fees provide added value to the customer on a standalone basis, we recognize professional service fees upon completion and customer acceptance because we have established objective and reliable evidence of the fair value of the undelivered hosting services. If a professional services arrangement does not qualify for separate accounting, we recognize the fees, and the related labor costs, ratably over a period of 36 months, representing our current estimate of the term of the client relationship.

For revenue generated from online transactions between Experts and Users, we recognize revenue net of expert fees in accordance with Emerging Issues Task Force (“EITF”) 99-19, “Reporting Revenue Gross as a Principle versus Net as an Agent” due to the fact that we perform as an agent without any risk of loss for collection. We collect a fee from the consumer and retain a portion of the fee, and then remit the balance to the expert. Revenue from these transactions is recognized when there is persuasive evidence of an arrangement, no significant Company obligations remain, collection of the resulting receivable is probable and the amount of fees to be paid is fixed or determinable.



## STOCK-BASED COMPENSATION

We follow Statement of Financial Accounting Standards (“SFAS”) No. 123 (R) (revised 2004), “Share-Based Payment,” which addresses the accounting for transactions in which an entity exchanges its equity instruments for goods or services, with a primary focus on transactions in which an entity obtains employee services in share-based payment transactions. SFAS No. 123(R) is a revision to SFAS No. 123, “Accounting for Stock-Based Compensation,” and supersedes Accounting Principles Board (“APB”) Opinion No. 25, “Accounting for Stock Issued to Employees,” and its related implementation guidance. SFAS No. 123(R) requires measurement of the cost of employee services received in exchange for an award of equity instruments based on the grant-date fair value of the award (with limited exceptions). Incremental compensation costs arising from subsequent modifications of awards after the grant date must be recognized.

We adopted SFAS No. 123(R) using the modified prospective transition method, which requires the application of the accounting standard as of January 1, 2006. Our Consolidated Financial Statements as of and for the years ended December 31, 2008, 2007 and 2006 reflect the impact of SFAS No. 123(R). In accordance with the modified prospective transition method, our Consolidated Financial Statements for prior periods have not been restated to reflect, and do not include, the impact of SFAS No. 123(R).

SFAS No. 123(R) requires companies to estimate the fair value of share-based payment awards on the date of grant using an option-pricing model. The value of the portion of the award that is ultimately expected to vest is recognized as expense over the requisite service periods in our Consolidated Statements of Operations. Stock-based compensation recognized in our Consolidated Statement of Operations for the years December 31, 2008, 2007 and 2006 includes compensation expense for share-based awards granted prior to, but not fully vested as of January 1, 2006 based on the grant date fair value estimated in accordance with SFAS No. 123 as well as compensation expense for share-based awards granted subsequent to January 1, 2006 in accordance with SFAS No. 123(R). We currently use the Black-Scholes option pricing model to determine grant date fair value.

As of June 30, 2009, there was approximately \$8.9 million of total unrecognized compensation cost related to nonvested share-based compensation arrangements. That cost is expected to be recognized over a weighted average period of approximately 1.9 years.

## ACCOUNTS RECEIVABLE

Our customers are primarily concentrated in the United States. We perform ongoing credit evaluations of our customers’ financial condition (except for customers who purchase the LivePerson services by credit card via Internet download) and have established an allowance for doubtful accounts based upon factors surrounding the credit risk of customers, historical trends and other information that we believe to be reasonable, although they may change in the future. If there is a deterioration of a customer’s credit worthiness or actual write-offs are higher than our historical experience, our estimates of recoverability for these receivables could be adversely affected. Our concentration of credit risk is limited due to the large number of customers. No single customer accounted for or exceeded 10% of our total revenue in the three and six months ended June 30, 2009 and 2008. One customer accounted for approximately 13% of accounts receivable at June 30, 2009. No single customer accounted for or exceeded 10% of accounts receivable at December 31, 2008. There was no change in our allowance for doubtful accounts in the six months ended June 30, 2009.

## GOODWILL

In accordance with SFAS No. 142, “Goodwill and Other Intangible Assets,” goodwill and indefinite-lived intangible assets are not amortized, but reviewed for impairment upon the occurrence of events or changes in circumstances that

would reduce the fair value below its carrying amount. Goodwill is required to be tested for impairment at least annually. Determining the fair value of a reporting unit under the first step of the goodwill impairment test and determining the fair value of individual assets and liabilities of a reporting unit (including unrecognized intangible assets) under the second step of the goodwill impairment test is judgmental in nature and often involves the use of significant estimates and assumptions. Similarly, estimates and assumptions are used in determining the fair value of other intangible assets. These estimates and assumptions could have a significant impact on whether or not an impairment charge is recognized and also the magnitude of any such charge. To assist in the process of determining goodwill impairment, we will obtain appraisals from an independent valuation firm. In addition to the use of an independent valuation firm, we will perform internal valuation analyses and consider other market information that is publicly available. Estimates of fair value are primarily determined using discounted cash flows and market comparisons. These approaches use significant estimates and assumptions including projected future cash flows (including timing), discount rates reflecting the risk inherent in future cash flows, perpetual growth rates, determination of appropriate market comparables and the determination of whether a premium or discount should be applied to comparables.

## IMPAIRMENT OF LONG-LIVED ASSETS

In accordance with SFAS No. 144, "Accounting for the Impairment or Disposal of Long-lived Assets," long-lived assets, such as property, plant and equipment and purchased intangibles subject to amortization are reviewed for impairment whenever events or changes in circumstances indicate that the carrying value of an asset may not be recoverable. Recoverability of assets to be held and used is measured by a comparison of the carrying value of an asset to estimated undiscounted future cash flows expected to be generated by the asset. If the carrying value of an asset exceeds its estimated future cash flows, an impairment charge is recognized in the amount by which the carrying value of the asset exceeds the fair value of the asset. Assets to be disposed of would be separately presented in the balance sheet and reported at the lower of the carrying value or the fair value less costs to sell, and are no longer depreciated. The assets and liabilities of a disposed group classified as held for sale would be presented separately in the appropriate asset and liability sections of the balance sheet.

## USE OF ESTIMATES

The preparation of our consolidated financial statements in accordance with accounting principles generally accepted in the U.S. requires our management to make a number of estimates and assumptions relating to the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at the date of the consolidated financial statements, and the reported amounts of revenue and expenses during the period. Significant items subject to such estimates and assumptions include the carrying amount of goodwill, intangibles, stock-based compensation, valuation allowances for deferred income tax assets, accounts receivable, the expected term of a client relationship, accruals and other factors. Actual results could differ from those estimates.

## RECENTLY ISSUED ACCOUNTING PRONOUNCEMENTS

In July 2009, the FASB issued Statement No. 168, "The FASB Accounting Standards Codification and the Hierarchy of Generally Accepted Accounting Principles — a replacement of FASB Statement No. 162" ("SFAS No. 168"). SFAS No. 168 established the FASB Accounting Standards Codification as the single source of authoritative U.S. generally accepted accounting principles (U.S. GAAP) recognized by the FASB to be applied by nongovernmental entities. SFAS No. 168 will supersede all existing non-SEC accounting and reporting standards. All other nongrandfathered non-SEC accounting literature not included in SFAS No. 168 will become nonauthoritative. Following SFAS No. 168, the FASB will not issue new standards in the form of Statements, FASB Staff Positions, or Emerging Issues Task Force Abstracts. Instead, the FASB will issue Accounting Standards Updates, which will serve only to: (a) update the Codification; (b) provide background information about the guidance; and (c) provide the bases for conclusions on the change(s) in the Codification. SFAS No. 168 and the Codification are effective for financial statements issued for interim and annual periods ending after September 15, 2009. The adoption of SFAS No. 168 is not expected to have a material impact on our consolidated financial statements.

In May 2009, the FASB issued Statement No. 165, "Subsequent Events" (SFAS No. 165). SFAS No. 165 established general standards of accounting for and disclosure of events that occur after the balance sheet date but before financial statements are issued or are available to be issued. Specifically, SFAS No. 165 provides; (a) the period after the balance sheet date during which management of a reporting entity should evaluate events or transactions that may occur for potential recognition or disclosure in the financial statements; (b) the circumstances under which an entity should recognize events or transactions occurring after the balance sheet date in its financial statements; and (c) the disclosures that an entity should make about events or transactions that occurred after the balance sheet date. SFAS No. 165 is effective for interim or annual financial periods ending after June 15, 2009, and shall be applied prospectively. The adoption of this FASB did not have a material impact on our consolidated financial statements.



In April 2009, the FASB issued FSP 107-1 and Accounting Principles Board (“APB”) 28-1, Interim Disclosures about Fair Value of Financial Instruments (“FSP 107-1”). FSP 107-1 amends SFAS No. 107, Disclosures About Fair Value of Financial Instruments, to require disclosures about fair value of financial instruments for interim reporting periods of publicly traded companies as well as in annual financial statements. FSP 107-1 also amends APB Opinion No. 28, Interim Financial Reporting, to require those disclosures in summarized financial information at interim reporting periods. FSP 107-1 is effective for interim reporting periods ending after June 15, 2009, with early adoption permitted for periods ending after March 15, 2009. FSP 107-1 does not require disclosures for earlier periods presented for comparative purposes at initial adoption. In periods after initial adoption, FSP 107-1 requires comparative disclosures only for periods ending after initial adoption. The adoption of this FSP did not have a material impact on our consolidated financial statements.

In April 2009, the FASB issued FSP 141(R) -1, “Accounting for Assets Acquired and Liabilities assumed in a Business Combination That Arise from Contingencies — an amendment of FASB Statement No. 141 (Revised December 2007), Business Combinations” (“FSP 141(R) -1”). FSP 141(R) -1 addresses application issues raised by preparers, auditors, and members of the legal profession on initial recognition and measurement, subsequent measurement and accounting, and disclosure of assets and liabilities arising from contingencies in a business combination. FSP 141(R) -1 is effective for assets or liabilities arising from contingencies in business combinations for which the acquisition date is on or after the beginning of the first annual reporting period beginning on or after December 15, 2008. FSP 141(R) -1 will have an impact on our accounting for any future acquisitions and its consolidated financial statements.

In April 2008, the FASB issued FSP 142-3, “Determination of the Useful Life of Intangible Assets” (“FSP 142-3”). FSP 142-3 amends the factors that should be considered in developing renewal or extension assumptions used to determine the useful life of a recognized intangible asset under SFAS No. 142, “Goodwill and Other Intangible Assets”. FSP 142-3 is effective for fiscal years beginning after December 15, 2008. The adoption of this FSP did not have a material impact on our consolidated financial statements.

In March 2008, the FASB issued Statement No. 161, “Disclosures about Derivative Instruments and Hedging Activities — an amendment of FASB Statement No. 133” (“SFAS No. 161”). SFAS No. 161 requires enhanced disclosures regarding derivatives and hedging activities, including: (a) the manner in which an entity uses derivative instruments; (b) the manner in which derivative instruments and related hedged items are accounted for under Statement of Financial Accounting Standards No. 133, “Accounting for Derivative Instruments and Hedging Activities”; and (c) the effect of derivative instruments and related hedged items on an entity’s financial position, financial performance, and cash flows. SFAS No. 161 is effective for financial statements issued for fiscal years and interim periods beginning after November 15, 2008. As SFAS No. 161 relates specifically to disclosures, it currently has no impact on our consolidated financial statements.

In December 2007, the FASB issued Statement No. 141 (revised 2007), “Business Combinations” (“SFAS No. 141(R)”). SFAS No. 141(R) established principles and requirements for how an acquirer recognizes and measures in its financial statements the identifiable assets acquired, the liabilities assumed, any noncontrolling interest in the acquiree, and the goodwill acquired. SFAS No. 141(R) also established disclosure requirements to enable the evaluation of the nature and financial effects of the business combination. SFAS No. 141(R) is effective for fiscal years beginning after December 15, 2008. SFAS No. 141(R) will have an impact on our accounting for any future acquisitions and on our consolidated financial statements.

In September 2006, the FASB issued Statement No. 157, "Fair Value Measurements" ("SFAS No. 157"), which defines fair value, establishes a framework for measuring fair value and expands disclosures about fair value measurements. SFAS No. 157 applies to other accounting pronouncements that require or permit fair value measurements, but does not require any new fair value measurements. SFAS No. 157 is effective for financial statements issued for fiscal years beginning after November 15, 2007 and interim periods within those fiscal years, with the exception of all non-financial assets and liabilities which will be effective for years beginning after November 15, 2008. We adopted the required provisions of SFAS No. 157 that became effective in our first quarter of 2008. The adoption of these provisions did not have a material impact on our consolidated financial statements. In February 2008, the FASB issued FASB Staff Position No. FAS 157-2, "Effective Date of FASB Statement No. 157" ("FSP 157-2"). FSP 157-2 delays the effective date of SFAS No. 157 for nonfinancial assets and nonfinancial liabilities, except for certain items that are recognized or disclosed at fair value in the financial statements on a recurring basis (at least annually). In October 2008, the FASB issued FASB Staff Position No. FAS 157-3, "Determining the Fair Value of a Financial Asset When the Market for That Asset Is Not Active." ("FSP 157-3"). FSP 157-3 applies to financial assets within the scope of accounting pronouncements that require or permit fair value measurements in accordance with SFAS No. 157. This FSP clarifies the application of SFAS No. 157 in determining the fair values of assets or liabilities in a market that is not active. In April 2009, the FASB issued FSP No. FAS 157-4, "Determining Fair Value When the Volume and Level of Activity for the Asset or Liability Have Significantly Decreased and Identifying Transactions That Are Not Orderly" ("FSP 157-4"). FSP 157-4 does not change the definition of fair value as detailed in FAS 157, but provides additional guidance for estimating fair value in accordance with FAS 157 when the volume and level of activity for the asset or liability have significantly decreased. The provisions of FSP 157-4 are effective for interim and annual reporting periods ending after June 15, 2009, with early adoption permitted for periods ending after March 15, 2009. If early adoption is elected for either FAS 115-2 or FAS 107-1 and APB 28-1, FSP 157-4 must also be adopted early. There were no non-financial assets and non-financial liabilities requiring initial measurement or subsequent remeasurement during the second quarter of 2009.

## REVENUE

The majority of our revenue is generated from monthly service revenues and related professional services from the sale of the LivePerson services. We charge a monthly fee, which varies by service and client usage. The majority of our larger clients also pay a professional services fee related to implementation. A large proportion of our revenue from new clients comes from large corporations. These companies typically have more significant implementation requirements and more stringent data security standards. Such clients also have more sophisticated data analysis and performance reporting requirements, and are likely to engage our professional services organization to provide such analysis and reporting on a recurring basis.

Revenue from our Business segment accounted for 86% and 87% of total revenue for the three and six months ended June 30, 2009, respectively. Revenue attributable to our monthly hosted Business services accounted for 96% of total Business revenue for the three and six months ended June 30, 2009. Revenue from our Business segment accounted for 85% of total revenue for the three and six months ended June 30, 2008. Revenue attributable to our monthly hosted Business services accounted for 93% and 94% of total Business revenue for the three and six months ended June 30, 2008, respectively. Our service agreements typically have twelve month terms and, in some cases, are terminable or may terminate upon 30 to 90 days' notice without penalty. Given the time required to schedule training for our clients' operators and our clients' resource constraints, we have historically experienced a lag between signing a client contract and recognizing revenue from that client. This lag has recently ranged from 30 to 90 days.

Revenue generated from online transactions between Experts and Users is recognized net of expert fees and accounted for approximately 14% and 13% of total revenue for the three and six months ended June 30, 2009, respectively. Revenue generated from online transactions between Experts and Users accounted for approximately 15% of total revenue for the three and six months ended June 30, 2008.



We also have entered into contractual arrangements that complement our direct sales force and online sales efforts. These are primarily with Web hosting and call center service companies, pursuant to which LivePerson is paid a commission based on revenue generated by these service companies from our referrals. To date, revenue from such commissions has not been material.

#### OPERATING EXPENSES

Our cost of revenue consists of:

- compensation costs relating to employees who provide customer support and implementation services to our clients;

- compensation costs relating to our network support staff;
- depreciation of certain hardware and software;
- allocated occupancy costs and related overhead;
- the cost of supporting our infrastructure, including expenses related to server leases, infrastructure support costs and Internet connectivity;
  - the credit card fees and related processing costs associated with the Consumer and SMB services; and
  - amortization of certain intangibles.

Our product development expenses consist primarily of compensation and related expenses for product development personnel, allocated occupancy costs and related overhead, outsourced labor and expenses for testing new versions of our software. Product development expenses are charged to operations as incurred.

Our sales and marketing expenses consist of compensation and related expenses for sales personnel and marketing personnel, online marketing, allocated occupancy costs and related overhead, advertising, sales commissions, public relations, promotional materials, travel expenses and trade show exhibit expenses.

Our general and administrative expenses consist primarily of compensation and related expenses for executive, accounting, legal and human resources personnel, allocated occupancy costs and related overhead, professional fees, provision for doubtful accounts and other general corporate expenses.

During the six months ended June 30, 2009, we did not increase our allowance for doubtful accounts. During 2008, we increased our allowance for doubtful accounts by \$148,000 to approximately \$356,000, principally due to an increase in accounts receivable as a result of increased sales and to the fact that a larger proportion of receivables are due from larger corporate clients that typically have longer payment cycles, and we wrote off approximately \$16,000 of previously reserved accounts, leaving a net allowance for doubtful accounts of \$340,000. We base our allowance for doubtful accounts on specifically identified credit risks of customers, historical trends and other information that we believe to be reasonable. We adjust our allowance for doubtful accounts when accounts previously reserved have been collected.

#### NON-CASH COMPENSATION EXPENSE

The net non-cash compensation amounts for the three and six months ended June 30, 2009 and 2008 consist of:

	Three Months Ended		Six Months Ended	
	June 30,		June 30,	
	2009	2008	2009	2008
Stock-based compensation expense related to SFAS No. 123(R)	\$ 1,118	\$ 1,204	\$ 2,279	\$ 2,164
Total	\$ 1,118	\$ 1,204	\$ 2,279	\$ 2,164

## RESULTS OF OPERATIONS

Due to our acquisition of Kasamba in October 2007, Proficient in July 2006, and our limited operating history, we believe that comparisons of our operating results for the three and six months ended June 30, 2009 and 2008 with each other, or with those of prior periods, are not meaningful and that our historical operating results should not be relied upon as indicative of future performance.

The Company is organized into two operating segments. The Business segment facilitates real-time online interactions — chat, voice/click-to-call, email and self-service/knowledgebase for global corporations of all sizes. The Consumer segment facilitates online transactions between independent Experts and individual Users.

### Comparison of Three and Six Months Ended June 30, 2009 and 2008

**Revenue - Business.** Revenue increased by 12% and 16% to \$17.7 million and \$35.1 million in the three and six months ended June 30, 2009, respectively, from \$15.8 million and \$30.2 million in the comparable periods in 2008. This increase is primarily attributable to increased revenue from existing clients in the amount of approximately \$1.5 million and \$3.5 million, respectively, net of cancellations and, to a lesser extent, to revenue from new clients in the amount of approximately \$762,000 and \$1.9 million, respectively, partially offset by a decrease in professional services revenue of approximately \$288,000 and \$304,000, respectively. Our revenue growth has typically been driven by a mix of revenue from newly added clients as well as expansion of existing clients.

**Revenue - Consumer.** Revenue increased by 3% to \$2.9 million in the three months ended June 30, 2009, from \$2.8 million in the comparable period in 2008. This increase is primarily attributable to a 15% increase in the fee we charge Experts which resulted in an increase in net revenue of approximately \$340,000, partially offset by lower total gross revenue. Revenue decreased by 1% to \$5.4 million in the six months ended June 30, 2009, from \$5.5 million in the comparable period in 2008. This decrease is primarily attributable to lower total gross revenue, partially offset by the fee increase, which resulted in an increase in net revenue of approximately \$545,000.

**Cost of Revenue - Business.** Cost of revenue consists of compensation costs relating to employees who provide customer service to our clients, compensation costs relating to our network support staff, the cost of supporting our server and network infrastructure and allocated occupancy costs and related overhead. Cost of revenue remained flat at \$4.3 million in the three months ended June 30, 2009 compared to the same period in 2008. An increase in expenses for primary and backup server facilities of approximately \$265,000 was offset by a decrease in total compensation costs related to customer service and network operations personnel in the amount of approximately \$250,000. Cost of revenue decreased by 6% to \$7.8 million in the six months ended June 30, 2009, from \$8.3 million in the comparable period in 2008. This decrease is primarily attributable to lower total compensation costs related to customer service and network operations personnel in the amount of approximately \$650,000 partially offset by an increase in expenses for primary and backup server facilities of approximately \$99,000.

**Cost of Revenue - Consumer.** Cost of revenue consists of compensation costs relating to employees who provide customer service to Experts and Users, compensation costs relating to our network support staff, the cost of supporting our server and network infrastructure, credit card and transaction processing fees and related costs, and allocated occupancy costs and related overhead. Cost of revenue decreased by 9% and 6% to \$888,000 and \$1.7 million in the three and six months ended June 30, 2009, respectively, from \$976,000 and \$1.9 million in the comparable periods in 2008. This decrease is primarily attributable to lower total compensation costs for our customer service and network support personnel in the amount of \$38,000 and \$54,000, respectively, and to a lesser extent, to lower credit card processing fees as a result of processing fewer transactions.

**Product Development.** Our product development expenses consist primarily of compensation and related expenses for product development personnel as well as allocated occupancy costs and related overhead. Product development costs

decreased by 10% and 11% to \$3.1 million and \$5.8 million in the three and six months ended June 30, 2009, respectively, from \$3.5 million and \$6.6 million in the comparable periods in 2008. This decrease is primarily attributable to lower total compensation costs for product development personnel as a result of favorable currency rate movements related to our Israeli operations as compared to the same periods in 2008.

**Sales and Marketing - Business.** Our sales and marketing expenses consist of compensation and related expenses for sales and marketing personnel, as well as advertising, public relations and trade show exhibit expenses. Sales and marketing expenses increased by 6% and 13% to \$5.0 million and \$9.9 million in the three and six months ended June 30, 2009, respectively, from \$4.7 million and \$8.8 million in the comparable periods in 2008. This increase is primarily attributable to an increase in costs related to additional sales and marketing personnel of approximately \$416,000 and \$1.2 million for the three and six months ended June 30, 2009, respectively. This increase relates to our continued efforts to enhance our brand recognition and increase sales lead activity.

**Sales and Marketing - Consumer.** Our sales and marketing expenses consist of compensation and related expenses for marketing personnel, as well as online promotion, public relations and trade show exhibit expenses. Sales and marketing expenses increased by 9% to \$1.9 million in the three months ended June 30, 2009 from \$1.7 million in the comparable period in 2008. This increase is primarily attributable to an increase in compensation and allocated overhead for marketing personnel of \$282,000, partially offset by a decrease in advertising and promotional expenses of approximately \$98,000. Sales and marketing expense remained flat at \$3.5 in the six months ended June 30, 2009 compared to the same period in 2008. An increase in compensation and allocated overhead for marketing personnel in the amount of \$658,000 was partially offset by a decrease in advertising and promotional expenses of \$548,000.

**General and Administrative.** Our general and administrative expenses consist primarily of compensation and related expenses for executive, accounting, legal, human resources and administrative personnel. General and administrative expenses decreased by 9% to \$3.2 million in the three months ended June 30, 2009, from \$3.5 million in the comparable period in 2008. This decrease is primarily attributable to a decrease in franchise taxes, bank fees, and recruiting costs in the amount of approximately \$355,000, partially offset by an increase in compensation and related expenses in the amount of \$193,000. General and administrative expenses increased by less than 1% to \$6.7 million in the six months ended June 30, 2009, from \$6.6 million in the comparable period in 2008. An increase in compensation and related expenses in the amount of \$479,000 was partially offset by decreases in recruiting, legal and accounting expenses in the amount of approximately \$435,000.

**Amortization of Intangibles.** Amortization expense was \$579,000 and \$1.2 million in the three and six months ended June 30, 2009, respectively, as compared to \$698,000 and \$1.4 million in the comparable periods in 2008, respectively. Amortization expense included in cost of revenue – consumer was \$307,000 and \$614,000 in the three and six months ended June 30, 2009 and 2008, respectively. Amortization expense in 2009 and 2008 relates primarily to intangible assets as a result of our acquisitions of Kasamba in October 2007 and Proficient in July 2006. Amortization expense is expected to be approximately \$2.0 million in the year ended December 31, 2009.

**Other Income (Expense).** Financial income was \$23,000 and \$37,000 in the three months ended June 30, 2009 and 2008, respectively, and relates to favorable currency rate movements related to our Israeli operations. Financial expense was \$96,000 and \$2,000 in the six months ended June 30, 2009 and 2008, respectively, and relates to unfavorable currency rate movements related to our Israeli operations. Interest income was \$21,000 and \$56,000 in the three and six months ended June 30, 2009, as compared to \$71,000 and \$191,000 in the comparable periods in 2008, respectively, and consists of interest earned on cash and cash equivalents. These decreases are primarily attributable to decreases in short-term interest rates.

**Provision for (Benefit from) Income Taxes.** Provision for income taxes was \$748,000 and \$2.0 million in the three and six months ended June 30, 2009, respectively. In the three and six months ended June 30, 2008, we recorded a benefit from income taxes in the amount of \$139,000 and \$90,000, respectively.

**Net Income (Loss).** We had net income of \$1.1 million and \$2.4 million in the three and six months ended June 30, 2009, as compared to a net loss of \$191,000 and \$403,000 for the comparable periods in 2008, respectively. Revenue increased by \$2.0 million and \$4.8 million, respectively, while operating expenses decreased by \$323,000 and \$368,000, respectively, contributing to a net increase in income from operations of approximately \$2.3 million and \$5.2 million, respectively. Our increase in income from operations is partially offset by decreases in other income of \$64,000 and \$229,000, for the three and six months ended June 30, 2009, respectively, and increases in income taxes of \$887,000 and \$2.1 million in the three and six months ended June 30, 2009, respectively.

## LIQUIDITY AND CAPITAL RESOURCES

As of June 30, 2009, we had approximately \$31.3 million in cash and cash equivalents, an increase of approximately \$5.8 million from December 31, 2008.

Net cash provided by operating activities was \$8.6 million for the six months ended June 30, 2009 and consisted primarily of net income, non-cash expenses related to SFAS No. 123(R), amortization of intangibles and depreciation, and to increases in accrued expenses and accounts payable partially offset by an increase in accounts receivable. Net cash provided by operating activities was \$3.6 million for the six months ended June 30, 2008 and consisted primarily of non-cash expenses related to the adoption of SFAS No. 123(R), to the amortization of intangibles, and to increases in accounts payable and deferred revenue, partially offset by a net loss, a decrease in accrued expenses, and an increase in accounts receivable.

Net cash used in investing activities was \$3.3 million and \$3.2 million in the six months ended June 30, 2009 and 2008, respectively, and was due primarily to the purchase of fixed assets.

Net cash provided by financing activities was \$544,000 for the six months ended June 30, 2009 and consisted primarily of the excess tax benefit from exercise of employee stock options and the proceeds from issuance of common stock in connection with the exercise of stock options by employees partially offset by the repurchase of common stock. Net cash used in financing activities was \$3.2 million for the six months ended June 30, 2008 and consisted primarily of the repurchase of common stock partially offset by the proceeds from the issuance of common stock in connection with the exercise of stock options by employees.

We have incurred significant costs to develop our technology and services, to hire employees in our customer service, sales, marketing and administration departments, and for the amortization of intangible assets, as well as non-cash compensation costs. As of June 30, 2009, we had an accumulated deficit of approximately \$114.8 million. These losses have been funded primarily through the issuance of common stock in our initial public offering and, prior to the initial public offering, the issuance of convertible preferred stock.

We anticipate that our current cash and cash equivalents will be sufficient to satisfy our working capital and capital requirements for at least the next 12 months. However, we cannot assure you that we will not require additional funds prior to such time, and we would then seek to sell additional equity or debt securities through public financings, or seek alternative sources of financing. We cannot assure you that additional funding will be available on favorable terms, when needed, if at all. If we are unable to obtain any necessary additional financing, we may be required to further reduce the scope of our planned sales and marketing and product development efforts, which could materially adversely affect our business, financial condition and operating results. In addition, we may require additional funds in order to fund more rapid expansion, to develop new or enhanced services or products or to invest in complementary businesses, technologies, services or products.

## CONTRACTUAL OBLIGATIONS AND COMMITMENTS

We do not have any special purposes entities, and other than operating leases, which are described below, we do not engage in off-balance sheet financing arrangements.

We lease facilities and certain equipment under agreements accounted for as operating leases. These leases generally require us to pay all executory costs such as maintenance and insurance. Rental expense for operating leases for the three and six months ended June 30, 2009 was approximately \$1.2 million and \$2.2 million, respectively, and approximately \$636,000 and \$1.2 million for the three and six months ended June 30, 2008, respectively.

As of June 30, 2009, our principal commitments were approximately \$7.1 million under various operating leases, of which approximately \$2.1 million is due in 2009. We do not currently expect that our principal commitments for the year ending December 31, 2009 will exceed \$5.0 million in the aggregate. Our capital expenditures are not currently expected to exceed \$9.0 million in 2009. Our contractual obligations at June 30, 2009 are summarized as follows:





Contractual Obligations	Total	Payments due by period (in thousands)			
		Less than 1 year	1-3 years	3-5 years	More than 5 years
Operating leases	\$ 7,122	\$ 2,146	\$ 4,976	\$ —	\$ —
Total	\$ 7,122	\$ 2,146	\$ 4,976	\$ —	\$ —

### ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

#### Currency Rate Fluctuations

The functional currency of our wholly-owned Israeli subsidiaries, LivePerson Ltd. (formerly HumanClick Ltd.) and Kasamba Ltd., is the U.S. dollar and the functional currency of our operations in the United Kingdom is the British pound.

As a result of the expanding scope of our Israeli operations, our currency rate fluctuation risk associated with the exchange rate movement of the U.S. dollar against the New Israeli Shekel (“NIS”) has increased. During the year ended December 31, 2008, the depreciation of the U.S. dollar against the NIS had an increased adverse impact on our results of operations and financial condition compared to earlier periods. During the six months ended June 30, 2009, the U.S. dollar appreciated against the NIS to levels more consistent with the recent historical average which had a positive impact on our results of operations and financial conditions when compared to 2008. During the six month period ended June 30, 2009, expenses generated by our Israeli operations totaled \$11.8 million.

#### Collection Risk

Our accounts receivable are subject, in the normal course of business, to collection risks. We regularly assess these risks and have established policies and business practices to protect against the adverse effects of collection risks. We did not increase our allowance for doubtful accounts in the six months ended June 30, 2009. During 2008, we increased our allowance for doubtful accounts by \$148,000 to approximately \$356,000, principally due to an increase in accounts receivable as a result of increased sales and to the fact that a larger proportion of receivables are due from larger corporate clients that typically have longer payment cycles and we wrote off approximately \$16,000 of previously reserved accounts, leaving a net allowance for doubtful accounts of \$340,000 at December 31, 2008.

#### Interest Rate Risk

Our investments consist of cash and cash equivalents. Therefore, changes in the market’s interest rates do not affect in any material respect the value of the investments as recorded by us.

### ITEM 4. CONTROLS AND PROCEDURES

#### Evaluation of Disclosure Controls and Procedures

Our management, including the Chief Executive Officer and Chief Financial Officer, evaluated the effectiveness of our “disclosure controls and procedures,” as that term is defined in Rule 13a-15(e) promulgated under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), as of June 30, 2009. Based on that evaluation, the Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective as of June 30, 2009 to ensure that the information we are required to disclose in the reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the Securities and Exchange Commission’s rules and forms, and to ensure that such information is accumulated and communicated to

our management, including the Chief Executive Officer and Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosure.

#### Changes in Internal Control Over Financial Reporting

There were no changes in our internal control over financial reporting during the quarter ended June 30, 2009 identified in connection with the evaluation thereof by our management, including the Chief Executive Officer and Chief Financial Officer, that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Limitations of the Effectiveness of Internal Control

A control system, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the internal control system are met. Because of the inherent limitations of any internal control system, no evaluation of controls can provide absolute assurance that all control issues, if any, within a company have been detected.

## PART II. OTHER INFORMATION

### ITEM 1. LEGAL PROCEEDINGS

On July 31, 2007, we were served with a complaint filed in the United States District Court for the Southern District of New York by the Shareholders' Representative of Proficient Systems, Inc. In connection with the July 2006 acquisition of Proficient, we were contingently required to issue up to 2,050,000 shares of common stock based on the terms of an earn-out provision in the merger agreement. In accordance with the terms of the earn-out provision, we issued 1,127,985 shares of LivePerson common stock in the second quarter of 2007 to the former shareholders of Proficient. The complaint filed by the Shareholders' Representative sought certain documentation relating to calculation of the earn-out consideration, and demands payment of damages on the grounds that substantially all of the remaining contingently issuable earn-out shares should have been paid. We believe the claims are without merit, intend to vigorously defend against this lawsuit, and do not currently expect that the calculation of the total shares issued will differ significantly from the amount issued to date.

On January 29, 2008, we filed a complaint in the United States District Court for the District of Delaware against NextCard, LLC and Marshall Credit Strategies, LLC, seeking a declaratory judgment that a patent purportedly owned by the defendants is invalid and not infringed by our products. On April 30, 2008, NextCard, LLC filed a complaint in the United States District Court for the Eastern District of Texas, concerning the same subject matter as the Delaware case, asserting patent infringement by us, and seeking monetary damages and an injunction. The parties entered into a settlement agreement in August 2009. The settlement terms under the agreement are confidential, and will not have a material effect on our results of operations, financial condition or cash flows.

On May 15, 2009, we filed a complaint in the United States District Court for the Southern District of New York against InstantService, Inc. asserting claims that InstantService infringes the U.S. Patent Nos. 6,519,628 and 7,526,439 owned by us. We are seeking damages for infringement and an injunction against future infringement of our patents. On June 2, 2009, we filed a first amended complaint seeking a declaratory judgment that a patent purportedly owned by InstantService is invalid and not infringed by our products. InstantService has not answered the complaint and has not filed counterclaims, but did file a motion to dismiss one of four causes of action. The case is in its early stages. We believe our claims have merit and that InstantService's motion to dismiss is without merit. We intend to vigorously pursue our claims.

We are not currently party to any other legal proceedings. From time to time, we may be subject to various claims and legal actions arising in the ordinary course of business.

### ITEM 1A. RISK FACTORS

Risks that could have a material and adverse impact on our business, results of operations and financial condition include the following: potential fluctuations in our quarterly and annual results; competition in the real-time sales, marketing and customer service solutions market; risks related to adverse business conditions experienced by our clients; risks related to the operational integration of acquisitions; additional regulatory requirements, tax liabilities, or currency exchange rate fluctuations could impact our business; potential goodwill impairments; continued use by our clients of the LivePerson services and their purchase of additional services; responding to rapid technological change and changing client preferences; technology systems beyond our control and technology-related issues or defects that could disrupt or compromise the LivePerson services; the services provided to consumers via our technology platforms could result in legal liability and/or negative publicity; payment-related risks from credit and debit cards; risks related to the regulation or possible misappropriation of personal information; risks related to protecting our intellectual property rights or potential infringement of the intellectual property rights of third parties; our history of losses; our ability to license necessary third party software for use in our products and services or successfully

integrate third party software; our dependence on key employees; competition for qualified personnel; the impact of new accounting rules; the possible unavailability of financing as and if needed; risks related to our international operations, particularly our operations in Israel, and the civil and political unrest in that region; and our dependence on the continued use of the Internet as a medium for commerce and the viability of the infrastructure of the Internet. This list is intended to identify only certain of the principal factors that could have a material and adverse impact on our business, results of operations and financial condition. A more detailed description of each of these and other important risk factors can be found under the caption "Risk Factors" in our most recent Annual Report on Form 10-K, filed on March 13, 2009.

There are no material changes to the risk factors described in the Form 10-K.

## ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

On March 5, 2009, our Board of Directors approved an extension of our existing stock repurchase program through March 31, 2010. The program, originally announced in February 2007 and first extended on March 10, 2008, was due to expire at the end of the first quarter of 2009.

Under the stock repurchase program, we are authorized to repurchase shares of our common stock, in the open market or privately negotiated transactions, at times and prices considered appropriate by our Board of Directors depending upon prevailing market conditions and other corporate considerations, up to an aggregate purchase price of \$8.0 million. As of June 30, 2009, \$3.9 million remained available for purchase under the program. Our Board of Directors may discontinue the program at any time.

The following table summarizes repurchases of our common stock under our stock repurchase program during the quarter ended June 30, 2009:

Period	Total Number of Shares Purchased	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Approximate Dollar Value of Shares that May Yet Be Purchased Under the Plans or Programs
4/1/2009 – 4/30/2009	—	—\$	—	3,946,000
5/1/2009 – 5/31/2009	—	—	—	3,946,000
6/1/2009 – 6/30/2009	—	—	—	3,946,000
Total	—	—\$	—	3,946,000

## ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

The Company held its Annual Meeting of Stockholders on June 9, 2009.

The stockholders elected Kevin C. Lavan and Robert P. LoCascio to the class of directors whose terms expire at the 2012 Annual Meeting of Stockholders or until their successors are elected and have qualified.

The stockholders approved the LivePerson, Inc. 2009 Stock Incentive Plan.

The stockholders ratified the appointment of BDO Seidman, LLP as the Company's independent registered public accounting firm for the calendar year ending December 31, 2009.

Shares of common stock were voted as follows:

Director Nominee or Proposal	For	Against/Withheld	Abstentions	Broker Non-Votes
Kevin C. Lavan	41,302,452	300,241	—	—
Robert P. LoCascio	41,317,561	285,132	—	—
2009 Stock Incentive Plan	27,184,565	7,070,968	—	7,333,513
Ratification of Auditors	41,527,002	63,613	—	—

#### ITEM 6. EXHIBITS

The following exhibits are filed as part of this Quarterly Report on Form 10-Q:

- 10.1 LivePerson, Inc. 2009 Stock Incentive Plan (incorporated by reference to Exhibit 99.1 of the Company's Registration Statement on Form S-8, filed with the Securities and Exchange Commission on June 9, 2009)
- 31.1 Certification by Chief Executive Officer pursuant to Exchange Act Rule 13a-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
- 31.2 Certification by Chief Financial Officer pursuant to Exchange Act Rule 13a-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
- 32.1 Certification by Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
- 32.2 Certification by Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

LIVEPERSON, INC.  
(Registrant)

Date: August 7, 2009

By: /s/ ROBERT P. LOCASCIO  
Name: Robert P. LoCascio  
Title: Chief Executive Officer (duly authorized officer)

Date: August 7, 2009

By: /s/ TIMOTHY E. BIXBY  
Name: Timothy E. Bixby  
Title: President and Chief Financial Officer  
(principal financial and accounting officer)

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EXHIBIT INDEX

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