

TIER TECHNOLOGIES INC
Form SC 13D/A
January 06, 2009

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

SCHEDULE 13D

**Under the Securities Exchange Act of 1934
(Amendment No. 6)***

Tier Technologies, Inc.

(Name of Issuer)

Common Stock, par value \$0.01 per share

(Title of Class of Securities)

88650Q100

(CUSIP Number)

John C. Rutherford

c/o Parthenon Capital LLC

265 Franklin Street

18th Floor

Boston, MA 02110

Telephone: (617) 960-4000

(Name, Address and Telephone Number of Person
Authorized to Receive Notices and Communications)

WITH A COPY TO:

Joshua N. Korff

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Kirkland & Ellis LLP

153 East 53rd Street

New York, New York 10022

(212) 446-4800

December 30, 2008

(Date of Event Which Requires Filing of this Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this schedule because of §§240.13d-1(e), 240.13d-1(f) or 240.13d-1(g), check the following box.

Note: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See Rule 13d-7 for other parties to whom copies are to be sent.

* The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page.

The information required on the remainder of this cover page shall not be deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

CUSIP No. 88650Q100

1. Names of Reporting Persons. I.R.S. Identification Nos. of above persons (entities only)
Giant Investment, LLC
2. Check the Appropriate Box if a Member of a Group (See Instructions)
 - (a)
 - (b)
3. SEC Use Only
4. Source of Funds (See Instructions)
WC
5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e)
6. Citizenship or Place of Organization
Delaware
7. Sole Voting Power
8. Shared Voting Power
1,799,322
9. Sole Dispositive Power
10. Shared Dispositive Power
1,799,322
11. Aggregate Amount Beneficially Owned by Each Reporting Person(1)
1,799,322
12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions)
13. Percent of Class Represented by Amount in Row (11)
9.1%
14. Type of Reporting Person (See Instructions)
OO

Number of
Shares
Beneficially
Owned by
Each
Reporting
Person With(1)

(1) See discussion in Item 5 of this Schedule 13D.

CUSIP No. 88650Q100

1. Names of Reporting Persons. I.R.S. Identification Nos. of above persons (entities only)
Parthenon Investors II, L.P.
2. Check the Appropriate Box if a Member of a Group (See Instructions)
 - (a)
 - (b)
3. SEC Use Only
4. Source of Funds (See Instructions)
WC
5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e)
6. Citizenship or Place of Organization
Delaware
7. Sole Voting Power
8. Shared Voting Power
1,748,401
9. Sole Dispositive Power
10. Shared Dispositive Power
1,748,401
11. Aggregate Amount Beneficially Owned by Each Reporting Person(2)
1,748,401
12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions)
13. Percent of Class Represented by Amount in Row (11)
8.9%
14. Type of Reporting Person (See Instructions)
PN

Number of
Shares
Beneficially
Owned by
Each
Reporting
Person With(2)

(2) See discussion in Item 5 of this Schedule 13D.

CUSIP No. 88650Q100

1. Names of Reporting Persons. I.R.S. Identification Nos. of above persons (entities only)
PCap Partners II, LLC
2. Check the Appropriate Box if a Member of a Group (See Instructions)
 - (a)
 - (b)
3. SEC Use Only
4. Source of Funds (See Instructions)
WC
5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e)
6. Citizenship or Place of Organization
Delaware
7. Sole Voting Power
8. Shared Voting Power
1,748,401
9. Sole Dispositive Power
10. Shared Dispositive Power
1,748,401
11. Aggregate Amount Beneficially Owned by Each Reporting Person(3)
1,748,401
12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions)
13. Percent of Class Represented by Amount in Row (11)
8.9%
14. Type of Reporting Person (See Instructions)
OO

Number of
Shares
Beneficially
Owned by
Each
Reporting
Person With(3)

(3) See discussion in Item 5 of this Schedule 13D.

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CUSIP No. 88650Q100

1. Names of Reporting Persons. I.R.S. Identification Nos. of above persons (entities only)
PCap II, LLC
2. Check the Appropriate Box if a Member of a Group (See Instructions)
(a)
(b)
3. SEC Use Only
4. Source of Funds (See Instructions)
WC
5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e)
6. Citizenship or Place of Organization
Delaware
7. Sole Voting Power
8. Shared Voting Power
1,748,401
9. Sole Dispositive Power
10. Shared Dispositive Power
1,748,401
11. Aggregate Amount Beneficially Owned by Each Reporting Person(4)
1,748,401
12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions)
13. Percent of Class Represented by Amount in Row (11)
8.9%
14. Type of Reporting Person (See Instructions)
OO

Number of
Shares
Beneficially
Owned by
Each
Reporting
Person With(4)

(4) See discussion in Item 5 of this Schedule 13D.

CUSIP No. 88650Q100

1. Names of Reporting Persons. I.R.S. Identification Nos. of above persons (entities only)
John C. Rutherford
 2. Check the Appropriate Box if a Member of a Group (See Instructions)

(a)	<input type="radio"/>
(b)	<input type="radio"/>
 3. SEC Use Only
 4. Source of Funds (See Instructions)
WC
 5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e)
 6. Citizenship or Place of Organization
New Zealand
- | | | |
|--|-----|---------------------------------------|
| | 7. | Sole Voting Power |
| Number of
Shares
Beneficially
Owned by
Each
Reporting
Person With(5) | 8. | Shared Voting Power
1,799,322 |
| | 9. | Sole Dispositive Power |
| | 10. | Shared Dispositive Power
1,799,322 |
11. Aggregate Amount Beneficially Owned by Each Reporting Person(5)
1,799,322
 12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions)
 13. Percent of Class Represented by Amount in Row (11)
9.1%
 14. Type of Reporting Person (See Instructions)
IN

(5) See discussion in Item 5 of this Schedule 13D.

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CUSIP No. 88650Q100

1. Names of Reporting Persons. I.R.S. Identification Nos. of above persons (entities only)
Ernest K. Jacquet
2. Check the Appropriate Box if a Member of a Group (See Instructions)
(a)
(b)
3. SEC Use Only
4. Source of Funds (See Instructions)
WC
5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e)
6. Citizenship or Place of Organization
United States
7. Sole Voting Power
8. Shared Voting Power
1,799,322
9. Sole Dispositive Power
10. Shared Dispositive Power
1,799,322
11. Aggregate Amount Beneficially Owned by Each Reporting Person(6)
1,799,322
12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions)
13. Percent of Class Represented by Amount in Row (11)
9.1%
14. Type of Reporting Person (See Instructions)
IN

(6) See discussion in Item 5 of this Schedule 13D.

CUSIP No. 88650Q100

This Statement on Schedule 13D/A (this Statement) relates to the shares of Common Stock, par value \$0.01 per share , (the Common Stock) of Tier Technologies, Inc. (Tier). This Statement is filed by Giant Investment, LLC, a Delaware limited liability company (Giant); Parthenon Investors II, L.P., a Delaware Limited Partnership (Parthenon); PCap Partners II, LLC, a Delaware limited liability company (PCap Partners); PCap II, LLC, a Delaware limited liability company (PCap II); John C. Rutherford and Ernest K. Jacquet.

The information set forth in response to each separate Item below shall be deemed to be a response to all Items where such information is relevant. The Schedule 13D originally filed on July 15, 2005 and amended on August 9, 2005, December 19, 2005, February 9, 2007, October 3, 2007 and December 30, 2008 is hereby amended further as follows:

CUSIP No. 88650Q100

Item 4.

Purpose of Transaction

Item 4 is hereby amended and restated in its entirety as follows:

The reporting persons originally acquired shares of Tier for investment purposes because of their belief that the market price of the Common Stock was less than the intrinsic value of Tier on a per-share basis. The reporting persons intend to optimize the value of their investments and, therefore, review from time to time Tier's business affairs, financial position, governance, management, capital structure, future plans and contractual rights and obligations and consider all alternatives available to the reporting persons with respect to their investment. As part of such review, the reporting persons may also, from time to time, seek to meet with and have discussions with Tier's management and directors and may communicate with other holders of the Common Stock to understand their views of Tier's operating strategy and financial performance. Based on such review, the reporting persons believe that Tier would benefit from the addition of new, independent directors who would be more open to considering additional strategies to enhance shareholder value. The reporting persons believe that based on his 23 years of in-depth executive experience, including his significant successes in spearheading turn-around, cost-cutting and merger integration efforts, Mr. Brian Edwards would be a strong asset to Tier as an independent member of its board of directors and would help shareholders maximize the value of their investment. Mr. Edwards does not currently have a formal employment, consulting or similar relationship with the reporting persons or their affiliates. In addition, the reporting persons believe that Mr. Zachary Sadek would be a strong asset to Tier as an independent member of its board of directors and would help Tier's shareholders maximize the value of their investment.

As a result, Giant sent a formal notice to Tier (the Notice) of the nomination of Mr. Sadek and Mr. Edwards for election to the Board of Directors of Tier at the annual meeting of shareholders of Tier to be held on March 11, 2009. Representatives of Giant will appear at the annual meeting in person or by proxy to nominate Mr. Sadek and Mr. Edwards. A copy of the Notice is attached hereto as Exhibit 99.2 and incorporated herein by reference. Exhibit B of the Notice includes biographical information about Mr. Sadek and Mr. Edwards.

In addition, the reporting persons believe that Tier should aggressively focus on right-sizing its corporate overhead and should return its excess capital to its shareholders. The reporting persons believe that Tier lacks the necessary scale to continue as an independent public company and should explore strategic alternatives, including a merger with another business or a sale of the company.

In addition to the foregoing, the reporting persons may engage Tier in discussions that may include one or more of the other actions described in subsections (a) through (j) of Item 4 of Schedule 13D. Depending on various factors including, without limitation, Tier's financial position and strategic direction, the outcome of the discussions with Tier's management, directors and/or stockholders, the outcome of the election of directors at Tier's 2009 annual meeting of stockholders, actions taken by the board of directors of Tier, price levels of the Common Stock, other investment opportunities available to the reporting persons, conditions in the securities market and general economic and industry conditions, the reporting persons may in the future take such actions with respect to their investments in Tier as they deem appropriate including, without limitation, acquiring or disposing the Common Stock or other securities of Tier through open market transactions, privately negotiated transactions, a tender offer, a merger, an exchange offer, or otherwise, engaging in any hedging or similar transactions with respect to the reporting person's holdings of Tier's Common Stock or other securities and/or otherwise changing their intention with respect to any and all matters referred to in Item 4 of Schedule 13D.

CUSIP No. 88650Q100

Item 7.

Material to Be Filed as Exhibits

99.1 Joint Filing Agreement.

99.2 Advance Notice of Nomination of Shareholder Nominees, dated December 30, 2008.

CUSIP No. 88650Q100

After reasonable inquiry and to the best of each of the undersigned's knowledge and belief, the undersigned certifies that the information set forth in this statement is true, complete and correct.

Dated: January 6, 2009

Giant Investment, LLC

By: Parthenon Investors II, L.P.,
as managing member

By: PCap Partners II, LLC,
as general partner

By: PCap II, LLC,
as general partner

By: /s/ John C. Rutherford
Name: John C. Rutherford
Title: Managing Member

Parthenon Investors II, L.P.

By: PCap Partners II, LLC,
as general partner

By: PCap II, LLC,
as general partner

By: /s/ John C. Rutherford
Name: John C. Rutherford
Title: Managing Member

PCap Partners II, LLC

By: PCap II, LLC,
as general partner

By: /s/ John C. Rutherford
Name: John C. Rutherford
Title: Managing Member

CUSIP No. 88650Q100

PCap II, LLC

By: /s/ John C. Rutherford
Name: John C. Rutherford
Title: Managing Member

/s/ John C. Rutherford
Name: John C. Rutherford

/s/ Ernest K. Jacquet
Name: Ernest K. Jacquet

CUSIP No. 88650Q100

INDEX TO EXHIBITS

Exhibit Number	Document
99.1	Joint Filing Agreement.
99.2	Advance Notice of Nomination of Shareholder Nominees, dated December 30, 2008.