

FireEye, Inc.
Form 10-Q
May 06, 2016

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

FORM 10-Q

(Mark One)

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

For the quarterly period ended March 31, 2016

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 001-36067

FireEye, Inc.
(Exact name of registrant as specified in its charter)

Delaware 20-1548921
(State or other jurisdiction of (I.R.S. Employer
incorporation or organization) Identification Number)

1440 McCarthy Blvd.
Milpitas, CA 95035
(408) 321-6300
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

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

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

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Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

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

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

The number of shares of the registrant's common stock outstanding as of May 2, 2016 was 166,355,306.

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PART I — FINANCIAL INFORMATION

Item 1. Financial Statements

FIREEYE, INC.

Condensed Consolidated Balance Sheets

(In thousands, except per share data)

(Unaudited)

	March 31, 2016	December 31, 2015
ASSETS		
Current assets:		
Cash and cash equivalents	\$175,113	\$402,102
Short-term investments	746,027	767,775
Accounts receivable, net of allowance for doubtful accounts of \$1,816 and \$2,021 at March 31, 2016 and December 31, 2015, respectively	141,247	172,752
Inventories	10,778	13,747
Prepaid expenses and other current assets	35,078	30,883
Total current assets	1,108,243	1,387,259
Property and equipment, net	81,324	78,368
Goodwill	974,184	750,288
Intangible assets, net	290,595	214,560
Deposits and other long-term assets	12,084	10,998
TOTAL ASSETS	\$2,466,430	\$2,441,473
LIABILITIES AND STOCKHOLDERS' EQUITY		
CURRENT LIABILITIES:		
Accounts payable	\$37,716	\$43,650
Accrued and other current liabilities	36,082	29,820
Accrued compensation	105,893	79,294
Deferred revenue, current portion	329,095	305,169
Total current liabilities	508,786	457,933
Convertible senior notes, net	714,978	706,198
Deferred revenue, non-current portion	236,987	221,829
Other long-term liabilities	9,298	11,141
Total liabilities	1,470,049	1,397,101
Commitments and contingencies (NOTE 9)		
Stockholders' equity:		
Common stock, par value of \$0.0001 per share; 1,000,000 shares authorized, 166,223 shares and 161,643 shares issued and outstanding as of March 31, 2016 and December 31, 2015, respectively	17	16
Additional paid-in capital	2,512,269	2,403,088
Treasury stock, at cost; 3,333 shares as of March 31, 2016 and December 31, 2015	(150,000)	(150,000)
Accumulated other comprehensive loss	(62)	(2,225)
Accumulated deficit	(1,365,843)	(1,206,507)
Total stockholders' equity	996,381	1,044,372
TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY	\$2,466,430	\$2,441,473
See accompanying notes to condensed consolidated financial statements.		

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FIREEYE, INC.

Condensed Consolidated Statements of Operations

(In thousands, except per share data)

(Unaudited)

	Three Months Ended March 31, 2016	2015	
Revenue:			
Product	\$ 33,707	\$	40,237
Subscription and services	134,259	85,133	
Total revenue	167,966	125,370	
Cost of revenue:			
Product	17,133	15,200	
Subscription and services	54,297	36,851	
Total cost of revenue	71,430	52,051	
Total gross profit	96,536	73,319	
Operating expenses:			
Research and development	85,983	65,605	
Sales and marketing	123,028	107,595	
General and administrative	42,256	32,607	
Restructuring charges	1,670	—	
Total operating expenses	252,937	205,807	
Operating loss	(156,401)	(132,488)	
Interest income			

1. Names of Reporting Persons
CD&R Parallel Fund Associates VII, Ltd.
2. Check the Appropriate Box if a Member of a Group (See Instructions)

(a)	o
(b)	x
3. SEC Use Only
4. Source of Funds
OO
5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e) o
6. Citizenship or Place of Organization
Cayman Islands

Number of
Shares

7.

Sole Voting Power
0 Shares

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Beneficially
Owned by
Each
Reporting
Person With

- | | |
|-----|-------------------------------------------------------------------------------------------------------|
| 8. | Shared Voting Power
0 Shares (See Item 5) |
| 9. | Sole Dispositive Power
0 Shares |
| 10. | Shared Dispositive Power
0 Shares (See Item 5) |
| 11. | Aggregate Amount Beneficially Owned by Each Reporting Person
0 Shares (See Item 5) |
| 12. | Check if the Aggregate Amount in Row (11) Excludes Certain Shares <input checked="" type="checkbox"/> |
| 13. | Percent of Class Represented by Amount in Row (11)
0.0% (1) |
| 14. | Type of Reporting Person
CO |

Explanatory Note

This Amendment No. 4 to Schedule 13D (this Amendment No. 4) amends and supplements the Schedule 13D originally filed with the United States Securities and Exchange Commission (the SEC) on June 8, 2009, as previously amended by Amendment No. 3 thereto filed with the SEC on March 18, 2013, Amendment No. 2 thereto filed with the SEC on December 14, 2012 and Amendment No. 1 thereto filed with the SEC on March 31, 2011 (as so amended, the Statement) as follows:

Item 4. Purpose of Transaction

Item 4 of the Statement is amended by inserting the following information:

On May 9, 2013, Clayton Dubilier & Rice Fund VII, L.P. sold 16,649,571 shares of common stock, par value \$0.01 per share (Shares), of Hertz Global Holdings, Inc., a Delaware corporation (Hertz Holdings, or the Issuer), CDR CCMG Co-Investor L.P. sold 6,070,064 Shares and CD&R Parallel Fund VII, L.P. sold 113,012 Shares, in each case to Goldman Sachs & Co. and J.P. Morgan Securities LLC (collectively, the

Underwriters) at a price of \$24.715 per Share, in a registered offering (the May 2013 Secondary Offering) pursuant to an Underwriting Agreement, dated as of May 6, 2013 (the May 2013 Underwriting Agreement), by and among the CD&R Hertz Funds (as defined in the Statement), the Carlyle Hertz Funds (as defined in the Statement), Merrill Lynch Ventures L.P. 2001, CMC-Hertz Partners, L.P. and the Underwriters.

Under the May 2013 Underwriting Agreement, the Issuer, the CD&R Hertz Funds, the Carlyle Hertz Funds, Merrill Lynch Ventures L.P. 2001 and CMC-Hertz Partners, L.P. have agreed with the Underwriters, subject to certain exceptions, not to dispose of or hedge any Shares or securities convertible into or exchangeable for Shares during the period from May 6, 2013 continuing through and including the date 45 days after May 6, 2013, except with the prior written consent of the Underwriters (such period, the restricted period). The restricted period will be automatically extended if: (1) during the last 17 days of the restricted period the Issuer issues an earnings release or announces material news or a material event; or (2) prior to the expiration of the restricted period, the Issuer announces that it will release earnings results during the 15-day period following the last day of the restricted period, in which case the restrictions described above will continue to apply until the expiration of the 18-day period beginning on the issuance of the earnings release or the announcement of the material news or material event, as applicable, unless Goldman, Sachs & Co. waives, in writing, such extension.

The foregoing description of the May 2013 Underwriting Agreement does not purport to be complete and is qualified in its entirety by reference to the May 2013 Underwriting Agreement, which is filed as Exhibit 10 hereto and is incorporated herein by reference.

Immediately upon completion of the May 2013 Secondary Offering, which occurred on May 9, 2013 (the Closing Date), the holdings of the CD&R Hertz Funds, the Carlyle Hertz Funds, the Merrill Lynch Funds and CMC-Hertz Partners, L.P. of the Issuer's common stock were reduced to *de minimis* amounts that they and certain affiliated entities had previously received from their nominees' equity-based compensation for service on the Issuer's Board of Directors or acquired in the ordinary course of business. In the May 2013 Secondary Offering, the Issuer entered into a termination letter agreement (the Termination Letter Agreement) with the CD&R Hertz Funds, the Carlyle Hertz Funds, the Merrill Lynch Funds and CMC-Hertz Partners, L.P., pursuant to which, effective as of the Closing Date, the Stockholders Agreement (as defined in the Statement) and the Registration Rights Agreement (as defined in the Statement) were terminated, except that certain indemnification obligations set forth in the Registration Rights Agreement survived termination. As a result of the termination of the Stockholders Agreement, the CD&R Hertz Funds, the Carlyle Hertz Funds and the Merrill Lynch Funds no longer have the right to designate nominees to the Issuer's Board of Directors under such agreement, and the directors currently serving on the Issuer's Board of Directors that were designated by them are no longer

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Investor Nominees for purposes of the Stockholders Agreement.

As a result of the foregoing, the CD&R Hertz Funds and the Carlyle Hertz Funds may no longer be deemed to be members of a group exercising voting and investment control over the Shares, and, therefore, ceased to be the beneficial owners of more than five percent of the Issuer's Shares.

The foregoing description of the Termination Letter Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of such agreement, which is filed as Exhibit 11 hereto and incorporated by reference.

Except as described in this Item 4 of this Statement, the Reporting Persons have no present plans or proposals that relate to or would result in any of the actions required to be reported herein.

Item 5. Interest in Securities of the Issuer

Item 5 of the Statement is amended and restated in its entirety by inserting the following information:

(a)-(b)

As of the date hereof (and after giving effect to sale of the Shares in the May 2013 Secondary Offering), each of the Reporting Persons beneficially owns the number and percentage of Shares then issued and outstanding listed opposite its name:

Reporting Person(1)	Amount Beneficially Owned	Percent of Class
Clayton Dubilier & Rice Fund VII, L.P.	0	0%
CD&R Associates VII, Ltd.	0	0%
CD&R Associates VII, L.P.	0	0%
CD&R Investment Associates VII, Ltd.	0(2)	0%
CDR CCMG Co-Investor L.P.	0	0%
CDR CCMG Co-Investor GP Limited	0(3)	0%
CD&R Parallel Fund VII, L.P.	0	0%
CD&R Parallel Fund Associates VII, Ltd.	0(4)	0%

(1) This table excludes the 28,571 Shares held by Merrill Lynch, Pierce, Fenner & Smith Incorporated and 437,088 shares held by Bank of America, N.A., which are associated with the Merrill Lynch Hertz Funds and 96,741 Shares and 46,700 currently exercisable options to purchase Shares issued to certain entities associated with MLGPE, as assignee of compensation payable to the Merrill Sponsor Nominees under Hertz Holdings Director Compensation Policy, which shares may be deemed to be beneficially owned by ML Global Private Equity Fund, L.P. As further described above under Item 4, the CD&R Hertz Funds and the Carlyle Hertz Funds may no longer be deemed to be members of a group exercising voting and investment control over the Shares held by the other group members, and, therefore, ceased to be the beneficial owners of more than five percent of the Issuer's Shares.

(2) CD&R Investment Associates VII, Ltd. and CD&R Parallel Fund Associates VII, Ltd. are each managed by a two person board of directors, and all board action relating to the voting or disposition of these Shares requires approval of a majority of the board. Donald J. Gogel and Kevin J. Conway, as the directors of CD&R Investment Associates VII, Ltd. and CD&R Parallel Fund Associates VII, Ltd., may be deemed to share beneficial ownership of the Shares shown as beneficially owned by the funds associated with Clayton, Dubilier & Rice, LLC. Such persons disclaim such beneficial ownership. Investment and voting decisions with respect to shares held by each of Clayton, Dubilier & Rice Fund VII, L.P., CD&R Parallel Fund VII, L.P. and CDR CCMG Co-Investor L.P. are made by an investment committee of limited partners of CD&R Associates VII, L.P., currently consisting of more than ten individuals (the Investment Committee). All members of the Investment Committee disclaim beneficial ownership of the shares shown as beneficially owned by the funds associated with Clayton, Dubilier & Rice LLC.

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(3) CDR CCMG Co-Investor GP Limited, which is a wholly owned subsidiary of Clayton, Dubilier & Rice Fund VII, L.P., is the general partner of CDR CCMG Co-Investor L.P. CDR CCMG Co-Investor GP Limited expressly disclaims beneficial ownership of the Shares held by each of CDR CCMG Co-Investor L.P. and Clayton, Dubilier & Rice Fund VII, L.P. Investment and voting decisions with respect to shares held by each of Clayton, Dubilier & Rice Fund VII, L.P., CD&R Parallel Fund VII, L.P. and CDR CCMG Co-Investor L.P. are made by an investment committee of limited partners of CD&R Associates VII, L.P., currently consisting of more than ten individuals (the Investment Committee). All members of the Investment Committee disclaim beneficial ownership of the shares shown as beneficially owned by the funds associated with Clayton, Dubilier & Rice LLC.

(4) CD&R Parallel Fund Associates VII, Ltd. is the general partner of CD&R Parallel Fund VII, LP. CD&R Parallel Fund Associates VII, Ltd. expressly disclaims beneficial ownership of the Shares held by each of CD&R Parallel Fund VII, L.P., Clayton, Dubilier & Rice Fund VII, L.P. and CDR CCMG Co-Investor L.P. Investment and voting decisions with respect to shares held by each of Clayton, Dubilier & Rice Fund VII, L.P., CD&R Parallel Fund VII, L.P. and CDR CCMG Co-Investor L.P. are made by an investment committee of limited partners of CD&R Associates VII, L.P., currently consisting of more than ten individuals (the

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Investment Committee). All members of the Investment Committee disclaim beneficial ownership of the shares shown as beneficially owned by the funds associated with Clayton, Dubilier & Rice LLC.

(b)

In addition to the description set forth above in this Item 5, see the cover pages of this Amendment No. 4 to Schedule 13D for indications of the respective voting powers and disposition powers of the Reporting Persons.

(c)

The information set forth in Item 4 above is hereby incorporated by reference.

(e)

On May 9, 2013, following the transactions reported herein, each of the Reporting Persons ceased to be the beneficial owner of more than five percent of the Shares.

Item 6. Contracts, Arrangements, Understandings or Relationships with Respect to Securities of the Issuer

Item 6 of the Statement is amended and restated in its entirety by inserting the following information:

The information set forth in Item 4 above is hereby incorporated by reference in response to Item 6.

Item 7. Material to Be Filed as Exhibits

EXHIBIT INDEX

Exhibit Number	Description
1.1	Joint Filing Agreement, dated May 17, 2013, by and among the Reporting Persons.
10	Underwriting Agreement, dated May 6, 2013, among Hertz Global Holdings, Inc., Clayton, Dubilier & Rice Fund VII, L.P., CDR CCMG Co-Investor L.P., CD&R Parallel Fund VII, L.P., Carlyle Partners IV, L.P., CEP II U.S. Investments, L.P., CP IV Coinvestment, L.P., CEP II Participations S.à r.l. SICAR, Merrill Lynch Ventures L.P. 2001, CMC-Hertz Partners, L.P. and Goldman, Sachs & Co. and J.P. Morgan Securities LLC, as underwriters.
11	Termination Letter Agreement, dated May 6, 2013, among Clayton, Dubilier and Rice Fund VII, L.P., CDR CCMG Co-Investor L.P., CD&R Parallel Fund VII, L.P., Carlyle Partners IV, L.P., CEP II U.S. Investments, L.P., CP IV

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Coinvestment L.P, CEP II Participations S.à.r.l. SICAR, ML Global Private Equity Fund, L.P., Merrill Lynch Ventures L.P. 2001, ML Hertz Co-Investor, L.P. and CMC-Hertz Partners, L.P. and Hertz Global Holdings, Inc.

SIGNATURE

After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this Statement is true, complete and correct.

CLAYTON, DUBILIER & RICE FUND VII, L.P.

By: CD&R Associates VII, Ltd.,
its general partner

By: /s/ Theresa A. Gore
Name: Theresa A. Gore
Title: Vice President, Treasurer and Assistant
Secretary

CD&R ASSOCIATES VII, LTD.

By: /s/ Theresa A. Gore
Name: Theresa A. Gore
Title: Vice President, Treasurer and Assistant Secretary

CD&R ASSOCIATES VII, L.P.

By: CD&R Investment Associates VII, Ltd.,
its general partner

By: /s/ Theresa A. Gore
Name: Theresa A. Gore
Title: Vice President, Treasurer and Assistant
Secretary

CD&R INVESTMENT ASSOCIATES VII, LTD.

By: /s/ Theresa A. Gore
Name: Theresa A. Gore
Title: Vice President, Treasurer and Assistant
Secretary

CDR CCMG CO-INVESTOR L.P.

By: CDR CCMG Co-Investor GP Limited,
its general partner

By: /s/ Theresa A. Gore
Name: Theresa A. Gore

CDR CCMG CO-INVESTOR GP LIMITED

By: /s/ Theresa A. Gore
Name: Theresa A. Gore
Title: Director

CD&R PARALLEL FUND VII, L.P.

By: CD&R Parallel Fund Associates VII, Ltd.,
its general partner

By: /s/ Theresa A. Gore
Name: Theresa A. Gore
Title: Vice President, Treasurer and Assistant
Secretary

CD&R PARALLEL FUND ASSOCIATES VII, LTD.

By: /s/ Theresa A. Gore
Name: Theresa A. Gore
Title: Vice President, Treasurer and Assistant
Secretary

Dated: May 17, 2013