

THESTREET COM
Form 8-K
January 26, 2010
UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): January 22, 2010

TheStreet.com, Inc.

(Exact Name of Registrant as Specified in its Charter)

DE
(State or other Jurisdiction
of Incorporation)

0-25779
(Commission File Number)

06-1515824
(I.R.S. Employer
Identification No.)

14 Wall Street 15th Floor
New York, NY
(Address of Principal Executive Offices)

10005
(Zip Code)

Registrant's telephone number, including area code: **(212) 321-5000**

(Former name or former address, if changed from last report)

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Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 2.02 Results of Operations and Financial Condition

On January 25, 2010, TheStreet.com, Inc. (the "Company") issued a press release announcing its financial condition and results of operations as of and for the periods ended June 30, 2009 and September 30, 2009, respectively, as well as revisions to certain line items in its previously-filed consolidated financial statements as of and for the fiscal year ended December 31, 2008 and the fiscal quarters within such fiscal year, respectively (collectively, the "2008 Periods"). A copy of the Company's press release is attached as Exhibit 99.1 to this Current Report and is incorporated herein by reference.

The information in this Item 2.02 and in Exhibit 99.1 of this Current Report is being furnished and shall not be deemed "filed" for the purposes of Section 18 of the Securities and Exchange Act of 1934, as amended (the "Exchange Act"), or otherwise subject to the liabilities under that Section, and shall not be incorporated by reference into any registration statement or other document filed under the Securities Act of 1933, as amended, or the Exchange Act, except as shall be expressly set forth by specific reference in such filing.

Item 4.02 Non-Reliance on Previously Issued Financial Statements or a Related Audit Report or Completed Interim Review

As previously disclosed, the Company identified an issue relating to its recording of certain revenue of its Promotions.com subsidiary ("Promotions.com" which subsidiary the Company sold in December 2009, as previously announced) and, as a result, the Audit Committee of the Board of Directors of the Company (the "Audit Committee") engaged outside counsel, Skadden, Arps, Slate, Meagher & Flom LLP, and accounting experts, AlixPartners LLP, and conducted an independent review of accounting matters related to Promotions.com (the "Review"). As a result of the Review, on January 22, 2010, the Audit Committee concluded that, due to certain inaccuracies in the previously-issued consolidated financial statements as of and for each of the 2008 Periods, such consolidated financial statements no longer should be relied upon. The Company will restate its consolidated financial statements for the year ended December 31, 2008 and anticipates filing, on or before February 8, 2010, a Form 10-K/A for the year ended December 31, 2008, which shall contain certain revised results for the quarters within such fiscal year.

The restatement will not affect the Company's previously-reported cash, cash equivalents, restricted cash and marketable securities. The restatement will make adjustments to correct errors related to the timing of recognition of revenue within the Promotions.com subsidiary and make adjustments to revenue and expense related to transactions with certain third parties involving the Promotions.com subsidiary, in which the Company contracted both to provide services to, and receive services from, such third parties. The adjustments will result in reduced revenue in certain quarters, and increased revenue in other quarters, as compared to results previously reported; reduced expense in certain quarters, as compared to results previously reported; and reduced net income (or increased net loss) in certain quarters, and reduced net loss in other quarters, as compared to results previously reported. Moreover, as a result of the restatement, certain revenue previously reported within 2008 Periods will be deferred and recognized in 2009.

The Audit Committee and authorized officers of the Company have discussed this matter with its current independent accountant, KPMG LLP, as well as with Marcum LLP (f/k/a Marcum & Kliegman, LLP), which was the Company's independent accountant during the Company's 2007 and 2008 fiscal years.

Item 9.01 Financial Statements and Exhibits

**THESTREET.COM, INC.
CONSOLIDATED STATEMENTS OF OPERATIONS**

Unaudited	
For the Three	For the Nine
Months Ended	Months Ended

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	September 30, 2009	September 30, 2009
Revenue:		
Paid services	\$ 9,373,672	\$ 28,310,049
Marketing services	5,861,931	15,418,258
Total revenue	15,235,603	43,728,307
Operating expense:		
Cost of services	7,156,120	22,666,527
Sales and marketing	3,005,218	8,768,054
General and administrative	5,266,804	13,129,465
Intangible asset impairment	-	24,137,069
Depreciation and amortization	1,348,806	4,027,253
Restructuring expense	169,692	2,728,502
Total operating expense	16,946,640	75,456,870
Operating loss	(1,711,037)	(31,728,563)
Net interest income	186,342	775,896
Gain on sales of marketable securities	34,684	295,430

Other income	-	153,677
Loss from continuing operations before income taxes	(1,490,011)	(30,503,560)
Benefit (provision) for income taxes	53,222	(16,283,105)
Loss from continuing operations	(1,436,789)	(46,786,665)
Discontinued operations:		
Loss on disposal of discontinued operations	1,846	10,453
Loss from discontinued operations	1,846	10,453
Net loss	(1,438,635)	(46,797,118)
Preferred stock cash dividends	96,424	289,272
Net loss attributable to common stockholders	\$ (1,535,059)	\$ (47,086,390)

Basic net loss per share:		
Loss from continuing operations	\$ (0.05)	\$ (1.53)
Loss on disposal of discontinued operations	(0.00)	(0.00)
Net loss	(0.05)	(1.53)
Preferred stock dividends	(0.00)	(0.01)
Net loss attributable to common stockholders	\$ (0.05)	\$ (1.54)

Diluted net loss per share:		
Loss from continuing operations	\$ (0.05)	\$ (1.53)
Loss on disposal of discontinued operations	(0.00)	(0.00)
Net loss	(0.05)	(1.53)

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Preferred stock dividends	(0.00)	(0.01)
Net loss attributable to common stockholders	\$ (0.05)	\$ (1.54)
Weighted average basic shares outstanding	30,606,216	30,574,361
Weighted average diluted shares outstanding	30,606,216	30,574,361
Adjusted EBITDA		
Net loss	\$ (1,438,635)	\$ (46,797,118)
Interest	(186,342)	(775,896)
Gain on sales of marketable securities	(34,684)	(295,430)
(Benefit) provision for income taxes	(53,222)	16,283,105
Depreciation & amortization	1,348,806	4,027,253
EBITDA	(364,077)	(27,558,086)
Other income	-	(153,677)
Intangible asset impairment	-	24,137,069
Restructuring and other charge	169,692	2,728,502
Costs of review of Promotions.com accounting	1,307,778	1,307,778
Noncash compensation	573,221	2,158,815
Adjusted EBITDA	\$ 1,686,614	\$ 2,620,401

THESTREET.COM, INC.
CONSOLIDATED BALANCE SHEET

	Unaudited
ASSETS	September 30,
	2009
Current Assets:	
Cash and cash equivalents	\$ 60,486,534
Restricted cash	500,000
Marketable securities	2,816,411
Accounts receivable, net of allowance for doubtful accounts of \$129,918	5,508,175
Other receivables	268,841
Prepaid expenses and other current assets	1,817,184
Current assets held for sale	3,089,853
Total current assets	74,486,998
Property and equipment, net of accumulated depreciation and amortization of \$12,557,033	8,011,657
Marketable securities	17,461,005
Long term investment	555,000
Other assets	77,710
Goodwill	20,181,000
Other intangibles, net	8,003,942
Restricted cash	1,660,371
Noncurrent assets held for sale	1,976,751
Total assets	\$ 132,414,434

LIABILITIES AND STOCKHOLDERS' EQUITY

Current Liabilities:

Accounts payable	\$ 2,078,814
Accrued expenses	5,791,362
Deferred revenue	16,918,187
Other current liabilities	181,431
Current liabilities of discontinued operations	223,204
Current liabilities held for sale	1,983,055
Total current liabilities	27,176,053
Other liabilities	885,447
Noncurrent liabilities held for sale	14,521
Total liabilities	28,076,021

Stockholders' Equity:

Preferred stock; \$0.01 par value; 10,000,000 shares authorized; 5,500 shares issued and 5,500 shares outstanding; the aggregate liquidation preference totals \$55,000,000	55
Common stock; \$0.01 par value; 100,000,000 shares authorized; 36,598,461 shares issued and 30,516,727 shares outstanding	365,985
Additional paid-in capital	270,621,024
Accumulated other comprehensive income	389,777
Treasury stock at cost; 6,081,734 shares	(10,411,952)
Accumulated deficit	(156,626,476)
Total stockholders' equity	104,338,413
Total liabilities and stockholders' equity	\$ 132,414,434

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	For the Three Months Ended June 30, 2009	For the Six Months Ended June 30, 2009
Revenue:		
Paid services	\$ 9,428,936	\$ 18,936,377
Marketing services	5,563,305	9,556,326
Total revenue	14,992,241	28,492,703

Operating expense:

Cost of services	7,264,697	15,510,407
Sales and marketing	2,785,929	5,762,836
General and administrative	3,320,983	7,862,661
Intangible asset impairment	-	24,137,069
Depreciation and amortization	1,207,710	2,678,447
Restructuring expense	574,281	2,558,810
Total operating expense	15,153,600	58,510,230
Operating loss	(161,359)	(30,017,527)
Net interest income	359,417	589,554
Gain on sales of marketable securities	260,746	260,746
Other income	-	153,677
Income (loss) from continuing operations before income taxes	458,804	(29,013,550)
Provision for income taxes	109,250	16,336,327
Income (loss) from continuing operations	349,554	(45,349,877)
Discontinued operations:		
Loss on disposal of discontinued operations	9,532	8,607
Loss from discontinued operations	9,532	8,607
Net income (loss)	340,022	(45,358,484)
Preferred stock cash dividends	96,424	192,848

Net income (loss) attributable to common stockholders \$ 243,598 \$ (45,551,332)

Basic net income (loss) per share:

Income (loss) from continuing operations	\$ 0.01	\$ (1.48)
Loss on disposal of discontinued operations	(0.00)	(0.00)
Net income (loss)	0.01	(1.48)
Preferred stock dividends	(0.00)	(0.01)
Net income (loss) attributable to common stockholders	0.01	\$ (1.49)

Diluted net income (loss) per share:

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Income (loss) from continuing operations	\$ 0.01	\$ (1.48)
Loss on disposal of discontinued operations	(0.00)	(0.00)
Net income (loss)	0.01	(1.48)
Preferred stock dividends	(0.00)	(0.01)
Net income (loss) attributable to common stockholders	\$ 0.01	\$ (1.49)
Weighted average basic shares outstanding	30,620,349	30,558,170
Weighted average diluted shares outstanding	30,620,349	30,558,170

Adjusted EBITDA

Net income (loss)	\$ 340,022	\$ (45,358,484)
Interest	(359,417)	(589,554)
Gain on sales of marketable securities	(260,746)	(260,746)

Provision for income taxes	109,250	16,336,327
Depreciation & amortization	1,207,710	2,678,447
EBITDA	1,036,819	(27,194,010)
Other income	-	(153,677)
Intangible asset impairment	-	24,137,069
Restructuring and other charge	574,281	2,558,810
Noncash compensation	341,981	1,585,594
Adjusted EBITDA	\$ 1,953,081	\$ 933,786

**THESTREET.COM, INC.
CONSOLIDATED BALANCE SHEET**

	Unaudited
	June 30, 2009
ASSETS	
Current Assets:	
Cash and cash equivalents	\$ 63,411,600
Restricted cash	500,000

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Marketable securities	799,031
Accounts receivable, net of allowance for doubtful accounts of \$100,436	5,090,863
Other receivables	495,954
Prepaid expenses and other current assets	2,174,219
Current assets held for sale	2,557,445
Total current assets	75,029,112
Property and equipment, net of accumulated depreciation and amortization of \$11,671,141	8,547,244
Marketable Securities	15,692,510
Long term investment	555,000
Other assets	81,610
Goodwill	20,181,000
Other intangibles, net	8,359,945
Restricted cash	1,660,371
Noncurrent assets held for sale	2,122,494
Total assets	\$ 132,229,286

LIABILITIES AND STOCKHOLDERS' EQUITY

Current Liabilities:

Accounts payable	\$ 1,786,259
Accrued expenses	5,247,683
Deferred revenue	16,285,222
Other current liabilities	132,300
Current liabilities of discontinued operations	231,955
Current liabilities held for sale	2,185,932
Total current liabilities	25,869,351
Other Liabilities	541,532
Noncurrent liabilities held for sale	17,083
Total liabilities	26,427,966

Stockholders' Equity:

Preferred stock; \$0.01 par value; 10,000,000 shares authorized; 5,500 shares issued and 5,500 shares outstanding; the aggregate liquidation preference totals \$55,000,000	55
Common stock; \$0.01 par value; 100,000,000 shares authorized; 36,598,461 shares issued and 30,620,942 shares outstanding	365,985
Additional paid-in capital	270,955,796
Accumulated other comprehensive income	(202,104)
Treasury stock at cost; 5,977,519 shares	(10,130,571)

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Accumulated deficit	(155,187,841)
Total stockholders' equity	105,801,320
Total liabilities and stockholders' equity	\$ 132,229,286

THESTREET.COM, INC.
CONSOLIDATED STATEMENTS OF OPERATIONS

	Unaudited			Unaudited			Unaudited			Unaudited	
	For the Three Months Ended March 31, 2008			For the Three Months Ended June 30, 2008			For the Three Months Ended September 30, 2008			For the Three Months Ended December 31, 2008	
	As Filed	Adjustment	As Restated	As Filed	Adjustment	As Restated	As Filed	Adjustment	As Restated	As Filed	Adjustment
Net revenue:											
Paid services	\$ 10,759,469	\$ -	\$ 10,759,469	\$ 10,289,939	\$ -	\$ 10,289,939	\$ 10,244,212	\$ -	\$ 10,244,212	\$ 9,892,368	\$ -
Marketing services	8,188,516	(955,959)	7,232,557	9,398,992	(1,285,110)	8,113,882	6,478,367	326,058	6,804,425	6,648,568	862,613
Total net revenue	18,947,985	(955,959)	17,992,026	19,688,931	(1,285,110)	18,403,821	16,722,579	326,058	17,048,637	16,540,936	862,613
Operating expense:											
Cost of services	7,656,127	(45,439)	7,610,688	8,366,156	(45,439)	8,320,717	8,405,002	(45,439)	8,359,563	7,777,480	(83,671)
Sales and marketing	3,763,595	-	3,763,595	3,630,394	-	3,630,394	3,550,363	-	3,550,363	3,318,847	-
General and administrative	4,355,545	-	4,355,545	4,078,822	-	4,078,822	4,589,851	-	4,589,851	4,538,020	(41,000)
Intangible asset impairment	-	-	-	-	-	-	-	-	-	-	-
Depreciation and amortization	1,263,604	-	1,263,604	1,584,780	-	1,584,780	1,584,780	1,481,670	-	1,481,670	-
Total operating expense	17,038,871	(45,439)	16,993,432	17,660,152	(45,439)	17,614,713	17,614,713	18,026,886	(45,439)	17,981,444	-
Operating income (loss)	1,909,114	(910,520)	998,594	2,028,779	(1,239,671)	789,108	789,108	(1,304,307)	371,496	(932,811)	-
Net interest income	686,194	-	686,194	400,243	-	400,243	400,243	345,675	-	345,675	-
Gain on sale of marketable security	-	-	-	-	-	-	-	-	-	-	-
Income (loss) from continuing operations before income taxes	2,595,308	(910,520)	1,684,788	2,429,022	(1,239,671)	1,189,351	1,189,351	(958,632)	371,496	(587,136)	-
(Provision) benefit for income taxes	(145,928)	-	(145,928)	(125,693)	-	(125,693)	(125,693)	(106,364)	-	(106,364)	-
Income (loss) from continuing operations	2,449,380	(910,520)	1,538,860	2,303,329	(1,239,671)	1,063,658	1,063,658	(1,064,996)	371,496	(693,500)	-
Discontinued operations:											
Loss on disposal of discontinued operations	2,731	-	2,731	2,085	-	2,085	2,085	3,079	-	3,079	-
Loss from discontinued operations	2,731	-	2,731	2,085	-	2,085	2,085	3,079	-	3,079	-
Net income (loss)	2,446,649	(910,520)	1,536,129	2,301,244	(1,239,671)	1,061,573	1,061,573	(1,068,075)	371,496	(696,579)	-
Preferred stock cash dividends	96,424	-	96,424	96,424	-	96,424	96,424	96,424	-	96,424	-
Net income (loss) attributable to common stockholders	\$ 2,350,225	\$ (910,520)	\$ 1,439,705	\$ 2,204,820	\$ (1,239,671)	\$ 965,149	\$ 965,149	\$ (1,164,499)	\$ 371,496	\$ (793,003)	-
Basic net income (loss) per share:											

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Income (loss) from continuing operations	\$ 0.08	\$ 0.05	\$ 0.07	\$ 0.03	\$ (0.04)	\$ (0.03)
Loss on disposal of discontinued operations	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)
Net income (loss)	0.08	0.05	0.07	0.03	(0.04)	(0.03)
Preferred stock dividends	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)
Net income (loss) attributable to common stockholders	\$ 0.08	\$ 0.05	\$ 0.07	\$ 0.03	\$ (0.04)	\$ (0.03)
Diluted net income (loss) per share:						
Income (loss) from continuing operations	\$ 0.07	\$ 0.04	\$ 0.07	\$ 0.03	\$ (0.04)	\$ (0.03)
Loss on disposal of discontinued operations	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)
Net income (loss)	0.07	0.04	0.07	0.03	(0.04)	(0.03)
Preferred stock dividends	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)	(0.00)
Net income (loss) attributable to common stockholders	\$ 0.07	\$ 0.04	\$ 0.07	\$ 0.03	\$ (0.04)	\$ (0.03)
Weighted average basic shares outstanding	30,392,980	30,392,980	30,452,497	30,452,497	30,482,949	30,482,949
Weighted average diluted shares outstanding	34,615,221	34,615,221	34,597,480	34,597,480	30,482,949	30,482,949

Adjusted EBITDA

Net income (loss)	\$ 2,446,649	\$ (910,520)	\$ 1,536,129	\$ 2,301,244	\$ (1,239,671)	\$ 1,061,573	\$ (1,068,075)	\$ 371,496	\$ (696,579)	\$ (2,344,619)
Net interest income	(686,194)	-	(686,194)	(400,243)	-	(400,243)	(345,675)	-	(345,675)	(141,640)
Gain on sale of marketable security	-	-	-	-	-	-	-	-	-	(120,937)
(Provision) benefit for income taxes	145,928	-	145,928	125,693	-	125,693	106,364	-	106,364	(375,945)
Depreciation & amortization	1,263,604	-	1,263,604	1,584,780	-	1,584,780	1,481,670	-	1,481,670	1,564,132
EBITDA	3,169,987	(910,520)	2,259,467	3,611,474	(1,239,671)	2,371,803	174,284	371,496	545,780	(1,419,009)
Intangible asset impairment	-	-	-	-	-	-	-	-	-	2,325,481
Noncash compensation	701,097	-	701,097	952,035	-	952,035	986,076	-	986,076	897,877
Adjusted EBITDA	\$ 3,871,084	\$ (910,520)	\$ 2,960,564	\$ 4,563,509	\$ (1,239,671)	\$ 3,323,838	\$ 1,160,360	\$ 371,496	\$ 1,531,856	\$ 1,804,349

**THESTREET.COM, INC.
CONSOLIDATED STATEMENTS OF OPERATIONS**

	Unaudited For the Three Months Ended March 31, 2008				Unaudited For the Three Months Ended June 30, 2008				Unaudited For the Three Months Ended September 30, 2008			
	As Restated	Promotions.com (1)	Excluding Promotions.com (1)		As Restated	Promotions.com (1)	Excluding Promotions.com (1)		As Restated	Promotions.com (1)	Excluding Promotions.com (1)	
Revenue:												
Paid services	\$10,759,469	\$93		\$10,759,376	\$10,289,939	\$93		\$10,289,846				
Marketing services	7,232,557	1,269,812	5,962,745	8,113,882	1,736,031	6,377,851	6,804,425	1,367,792	5,436,633	7,511,181	2,161,878	5,349,303
Total revenue	17,992,026	1,269,905	16,722,121	18,403,821	1,736,124	16,667,697	17,048,637	1,367,854	15,680,783	17,403,549	2,162,277	15,241,272

Operating expense:									
Cost of services	7,610,688	1,363,783	6,246,905	8,320,717	1,704,955	6,615,762	8,359,563	1,708,133	6,651,430
Sales and marketing	3,763,595	145,006	3,618,589	3,630,394	116,789	3,513,605	3,550,363	142,379	3,407,984
General and administrative	4,355,545	548,819	3,806,726	4,078,822	514,829	3,563,993	4,589,851	536,548	4,053,303
Intangible asset impairment	-	-	-	-	-	-	-	-	-
Depreciation and amortization	1,263,604	-	1,263,604	1,584,780	-	1,584,780	1,481,670	-	1,481,670
Restructuring expense	-	-	-	-	-	-	-	-	-
Total operating expense	16,993,432	2,057,608	14,935,824	17,614,713	2,336,573	15,278,140	17,981,447	2,387,060	15,594,387
Operating income (loss)	998,594	(787,703)	1,786,297	789,108	(600,449)	1,389,557	(932,811)	(1,019,206)	86,395
Net interest income	686,194	-	686,194	400,243	-	400,243	345,675	-	345,675
Gain on sales of marketable securities	-	-	-	-	-	-	-	-	-
Other income	-	-	-	-	-	-	-	-	-
Income (loss) from continuing operations before income taxes	1,684,788	(787,703)	2,472,491	1,189,351	(600,449)	1,789,800	(587,136)	(1,019,206)	432,070
(Provision) benefit for income taxes	(145,928)	-	(145,928)	(125,693)	-	(125,693)	(106,364)	-	(106,364)
Income (loss) from continuing operations	1,538,860	(787,703)	2,326,563	1,063,658	(600,449)	1,664,107	(693,500)	(1,019,206)	325,706
Discontinued operations:									
Loss (income) on disposal of discontinued operations	2,731	-	2,731	2,085	-	2,085	3,079	-	3,079
Loss from discontinued operations	2,731	-	2,731	2,085	-	2,085	3,079	-	3,079
Net income (loss)	1,536,129	(787,703)	2,323,832	1,061,573	(600,449)	1,662,022	(696,579)	(1,019,206)	322,627
Preferred stock cash dividends	96,424	-	96,424	96,424	-	96,424	96,424	-	96,424
Net income (loss) attributable to common stockholders	\$1,439,705	\$ (787,703)	\$ 2,227,408	\$ 965,149	\$ (600,449)	\$ 1,565,598	\$ (793,003)	\$ (1,019,206)	\$ 226,203
Basic net income (loss) per share:									
Income (loss) from continuing operations	\$ 0.05		\$ 0.07	\$ 0.03		\$ 0.05	\$ (0.03)		\$ 0.01
Loss on disposal of discontinued operations	(0.00)		(0.00)	(0.00)		(0.00)	(0.00)		(0.00)
Net income (loss)	0.05		0.07	0.03		0.05	(0.03)		0.01
Preferred stock dividends	(0.00)		(0.00)	(0.00)		(0.00)	(0.00)		(0.00)
Net income (loss) attributable to common stockholders	\$ 0.05		\$ 0.07	\$ 0.03		\$ 0.05	\$ (0.03)		\$ 0.01
Diluted net income (loss) per share:									
Income (loss) from continuing operations	\$ 0.04		\$ 0.06	\$ 0.03		\$ 0.05	\$ (0.03)		\$ 0.01
Loss on disposal of discontinued operations	(0.00)		(0.00)	(0.00)		(0.00)	(0.00)		(0.00)

Net income (loss)
Preferred stock dividends
Net income (loss) attributable to common stockholders

Weighted average basic shares outstanding
Weighted average diluted shares outstanding

Adjusted EBITDA

Net income (loss)

Interest
Gain on sales of marketable securities
Provision (benefit) for income taxes
Depreciation & amortization
EBITDA

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Other income
Intangible asset impairment
Restructuring expense
Costs of review of Promotions.com accounting
Noncash compensation
Adjusted EBITDA

(1) The above information with respect to Promotions.com is presented as a non-GAAP measure for illustrative purposes regarding the disposition of the Company's Promotions.com subsidiary on a pro forma basis.

Promotions.com was a legal subsidiary of the Company whose activities were a part of the combined results of the Company. Historically, Promotions.com was not considered a separate entity for its activities.

The column "Excluding Promotions.com" gives effect to the disposition of the Promotions.com subsidiary as if such disposition had taken place on the first day of such reporting period.

SIGNATURE

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

TheStreet.com, Inc.

(Registrant)

Date: January 26, 2010

By: /s/ Gregory Barton
*Executive Vice President, Business and Legal Affairs, General
Counsel & Secretary*
