

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 10-K

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

For the fiscal year ended December 31, 2012

Commission file number 000-53851

Mobivity Holdings Corp.

(Exact Name of Registrant as Specified in Its Charter)

Nevada

(State or Other Jurisdiction of
Incorporation or Organization)

26-3439095

(I.R.S. Employer
Identification No.)

58 West Buffalo St, #200
Chandler, AZ 85225

(Address of Principal Executive Offices and Zip Code)

(866) 622-4261
(Telephone Number)

Securities registered pursuant to Section 12(b) of the Act:

None

Securities registered pursuant to section 12(g) of the Act:

Common Stock, \$.001 par value

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes [] No [X]

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes [X] No []

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 [X] 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 [X] No []

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. []

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 | <input type="checkbox"/> | Accelerated filer | <input type="checkbox"/> |
| Non-accelerated filer | <input type="checkbox"/> | Smaller reporting company | <input checked="" type="checkbox"/> |

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

The aggregate market value of the voting and non-voting stock held by non-affiliates is computed by reference to the price at which the common equity was last sold, or the average bid and asked price of such common stock equity, as of June 30, 2012, representing the last business day of the registrant's most recently completed second fiscal quarter: \$9,187,619.

As of February 11, 2013, the registrant had 23,218,117 shares of common stock issued and outstanding.

MOBIVITY HOLDINGS CORP.
ANNUAL REPORT ON FORM 10-K
FISCAL YEAR ENDED DECEMBER 31, 2012
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FORWARD-LOOKING STATEMENTS

This Annual Report on Form 10-K, or Form 10-K, contains “forward-looking statements” that involve risks and uncertainties, as well as assumptions that, if they never materialize or prove incorrect, could cause our results to differ materially and adversely from those expressed or implied by such forward-looking statements. The forward-looking statements are contained principally in Item 1—“Business,” Item 1.A—“Risk Factors” and Item 7—“Management’s Discussion and Analysis of Financial Condition and Results of Operations” but appear throughout the Form 10-K. Examples of forward-looking statements include, but are not limited to our expectations, beliefs or intentions regarding our potential product offerings, business, financial condition, results of operations, strategies or prospects and other matters that do not relate strictly to historical facts or statements of assumptions underlying any of the foregoing. These statements are often identified by the use of words such as “anticipate,” “believe,” “continue,” “could,” “estimate,” “expect,” “intend,” “may,” “ongoing,” “opportunity,” “plan,” “potential,” “predicts,” “seek,” “should,” “will,” or “would,” and similar expressions and variations or negatives of these words. These forward-looking statements are based on the expectations, estimates, projections, beliefs and assumptions of our management based on information currently available to management, all of which are subject to change. Such forward-looking statements are subject to risks, uncertainties and other factors that are difficult to predict and could cause our actual results and the timing of certain events to differ materially and adversely from future results expressed or implied by such forward-looking statements. Factors that could cause or contribute to such differences include, but are not limited to, those identified below, and those discussed under Item 1.A. “Risk Factors” in this Form 10-K. Furthermore, such forward-looking statements speak only as of the date of this Form 10-K. We undertake no obligation to update or revise publicly any forward-looking statements to reflect events or circumstances after the date of such statements for any reason, except as otherwise required by law.

Part I

Item 1. Business

General Information

Mobivity Holdings Corp. (the “Company” or “we”) is a provider of technology that enables major brands and enterprises to engage consumers via their mobile phone. Interactive electronic communications with consumers is a complex process involving communication networks and software. We remove this complexity through our suite of services and technologies thereby enabling brands, marketers, and content owners to communicate with their customers and consumers in general. From Presidential elections to major broadcast events, we are pioneers in the deployment of the mobile channel as the ultimate direct connection to the consumer.

Mobile phone users represent a large and captive audience. While televisions, radios, and even PCs are often shared by multiple consumers, mobile phones are personal devices representing a unique and individual address to the end user. We believe that the future of digital media will be significantly influenced by mobile phones where a direct, personal conversation can be had with the world’s largest audience. The future of mobile includes banking, commerce, advertising, video, games and just about every other aspect of both on and offline life. Over four million consumers have been engaged via their mobile device thanks to our technology.

We believe that our mobile marketing and advertising campaign platform is among the most advanced in the industry as it allows real time interactive communications with consumers. We generate revenue from licensing our software to clients in our software as a service (SaaS) model, per-message and per minute transactional fees, and customized professional services.

Our “C4” Mobile Marketing and Customer Relationship Management (CRM) platform is a hosted solution enabling our clients to develop, execute, and manage a variety of engagements to a consumer’s mobile phone. Short Messaging Service (SMS), Multi-Media Messaging (MMS), and Interactive Voice Response (IVR) interactions can all be facilitated via a set of Graphical User Interfaces (GUIs). Reporting and analytics capabilities are also available to our users through the C4 solution.

We believe that mobile devices are emerging as an important interactive channel for brands to reach consumers since it is the only media platform that has access to the consumer virtually anytime and anywhere. Brands and advertising agencies are recognizing the unique benefits of the mobile channel and they are increasingly integrating mobile media within their overall advertising and marketing campaigns. Our objective is to become the industry leader in connecting brands and enterprises to consumers' mobile phones.

Company Strategy

Our objective is to build an industry-leading mobile marketing company through a combination of organic and acquired growth. The key elements to our strategy are:

- **Exploit the competitive advantages and operating leverage of our technology platform.** The core of our business is our proprietary, enterprise-grade C4 technology platform. We believe that the C4 platform is more advanced than technologies offered by our competitors and provides us with a significant competitive advantage. The platform is also highly scalable and capable of supporting substantial growth of our business.
- **Expand our sales and customer support infrastructure.** We have historically focused our efforts on development of our technology and solutions. Going forward, we intend to increase significantly our investments in sales and customer support.
- **Acquire complementary businesses and technologies.** Our future growth will largely depend upon our ability to acquire and integrate complementary businesses. We intend to target companies with some or all of the following characteristics: (1) an established revenue base, (2) strong pipeline and growth prospects, (3) break-even or positive cash flow, (4) opportunities for substantial expense reductions through integration into our platform, (5) strong sales teams, and (6) technology and services that further build out and differentiate our platform.
- **Build our intellectual property portfolio.** We currently have one issued patent and recently acquired a second issued patent that we believe has significant potential application in the mobile marketing industry. We plan to continue our investment in building a strong intellectual property portfolio.

While these are the key elements of our current strategy, there can be no guarantees that our strategy will not change, or that we will succeed in achieving these goals.

Company Background

Mobivity Holdings Corp., a Nevada corporation, formerly Ares Ventures Corporation, was an exploration stage company with no revenues and a limited operating history until November 2010.

Share Exchange

On November 2, 2010, we completed the acquisition of Mobivity, Inc. (formerly CommerceTel, Inc.), in exchange for 10,000,000 shares of our common stock (the "Share Exchange"). Please refer to Note 1 in the accompanying consolidated financial statements. Our current operations are conducted entirely by Mobivity, Inc.

In anticipation of the transaction, effective October 5, 2010, we changed our name from Ares Ventures Corporation to CommerceTel Corporation. In June, 2012, we changed our name to Mobivity Holdings Corp. in conjunction with a company-wide rebranding.

Txtstation Acquisition

In April 2011, we acquired substantially all of the assets of the Txtstation interactive mobile marketing platform and services business from Adspaq Limited (“Adspaq”). The purchase price for the acquisition was 2,125,000 shares of our common stock and \$300,000 in cash. Of the cash portion, \$50,000 was paid at closing, with an additional \$25,000 payable on the 60th day following closing. The balance is payable in \$25,000 installments at the end of each of the next nine 30-day periods thereafter. We assumed none of Adspaq’s liabilities in the transaction. For a period of one year following the closing of the transaction, half of the shares of common stock issued to Adspaq were held in escrow as security for Adspaq’s obligations under the agreement.

In connection with the transaction, we also issued 300,000 shares of our common stock to the controlling stockholder of Adspaq in consideration of certain indemnification obligations and other agreements. For one year following the closing of the transaction, the shareholder has agreed not to, directly or indirectly, transfer, donate, sell, assign, pledge, hypothecate, grant a security interest in or otherwise dispose or attempt to dispose of all or any portion of shares issued to it (or any interest therein). As a result of the transaction, our headcount increased by seven full time employees and one part time employee on April 1, 2011.

Mobivity Acquisition

In April 2011, we entered into an acquisition agreement with Mobivity, LLC and Mobile Visions, Inc. to acquire the assets of their Mobivity interactive mobile marketing platform and services business.

The purchase price for the acquisition was 1,000,000 shares of our common stock, \$64,969 in cash paid at closing and a secured subordinated promissory note of Mobivity, Inc. (our wholly owned subsidiary) in the principal amount of \$606,054. The promissory note earned interest at 6.25% per annum; was payable in six quarterly installments of \$105,526.42 (inclusive of interest) starting May 1, 2011; matured on August 1, 2012. The note was paid in full on May 31, 2012.

BoomText Acquisition

In August 2011, the Company completed the transactions contemplated under an asset purchase agreement dated June 9, 2011 (the “Agreement”) with Digimark, LLC (“Digimark”) to acquire substantially all of the assets of its BoomText interactive mobile marketing services business. The effective date of the transaction was August 1, 2011. In accordance with the terms of the Agreement, as amended, the purchase price for the acquisition consisted of the following components:

- (i) 519,540 shares of the Company’s common stock issued at closing;
- (ii) \$120,514 in cash paid at closing;
- (iii) a secured subordinated promissory note of Mobivity, Inc. in the principal amount of \$175,000. This note earned interest at 6.25% per annum and was paid in full on May 31, 2012.
- (iv) an unsecured subordinated promissory note in the principal amount of \$194,658 issued by Mobivity, Inc. due and payable on October 1, 2012, of which \$100,000 was outstanding as of the date of this report. This note does not bear interest; is payable in installments (varying in amount) from August 2011 through October 2012; and is subordinated to our obligations under the outstanding 10% Senior Secured Convertible Bridge Notes due November 3, 2011;
- (v) an earn-out payment (payable 20 months after closing of the transaction) of a number of shares of our common stock equal to (a) 1.5, multiplied by our net revenue from acquired customers and customer prospects for the twelve-month period beginning six months after the closing date, divided by (b) the average of the volume-weighted average trading prices of our common stock for the 25 trading days immediately preceding the earn-out payment (subject to a collar of \$1.49 and \$2.01 per share).

As of December 31, 2012, the dollar value of the earn-out payable is \$2,032,881, which is recorded as a current liability on the accompanying consolidated balance sheet. The estimated number of common shares to be issued to settle the earn-out payable is 1,364,350. The purchase price also included the assumption of an office lease obligation and certain of Digimark’s accounts payable.

Industry Background

The area of our business consists of advertising and marketing. While advertising raises awareness and fosters positive perceptions of a product, service or company through brand-building or individually-targeted campaigns, marketing activities occur once the consumer decides to interact with the brand, and are focused on convincing the consumer to take action, for example request information, opt-in to a campaign, or make a purchase.

The Mobile Marketing Association, the premier global non-profit trade association in the area of mobile marketing, has defined mobile marketing as a set of practices that enables organizations to communicate and engage with their audience in an interactive and relevant manner through any mobile device or network. Mobile marketing is commonly known as wireless marketing.

Mobile advertising is a rapidly growing business providing brands, agencies and marketers the opportunity to connect with consumers beyond traditional and digital media directly on their mobile phones. Today's mobile phones are utilized for more than just making and receiving calls. Besides voice services, mobile users have access to data services such Short Message Service (SMS), also known as text messaging, picture messaging, content downloads and the Mobile Web. These media channels carry both content and advertising. The mobile phone is an extremely personal device as each mobile phone typically has one unique user. This makes the mobile phone a precisely targeted communication channel, where users are highly engaged with content. As a result, the mobile channel is believed to be a highly effective campaign tool and its response levels are high compared to other media. We believe that mobile is valuable as a stand-alone medium for advertising, but it is also well suited for a vital role in fully integrated cross-media campaign plans, including TV, print, radio, outdoor, cinema, online and direct mail. We believe that the future of digital media will be significantly influenced by mobile phones where a direct, personal conversation can be had with the world's largest network. Mobile advertising extends to banking, commerce, advertising, video, games and just about every other aspect of both on and offline life.

Mobile advertising campaigns may use multiple channels to reach the consumer, including Mobile Web sites, mobile applications, mobile messaging and mobile video, all of which can be integrated into interactive campaigns. Each channel can link to additional mobile content or channels, as well as to complementing traditional media. Mobile advertising provides a powerful, instant and interactive response path in that consumers may send a keyword to a short code via SMS, or register on a Mobile Web site.

Mobile Web

The Mobile Web is quickly emerging as a mainstream information, entertainment and transaction source for people on the move as a viable alternative to the PC. Browsing the Mobile Web is similar in many respects to traditional PC-based Web browsing and provides users with access to news, sports, weather, entertainment and shopping sites. However, there are some significant differences between PC based access and phone-based access:

- The mobile phone is a targeted device with typically only one user. This enables the delivery of relevant communications causing users to become engaged immediately with campaigns and content resulting in increased campaign effectiveness.
- Mobile phones do not permit detailed search and delivery. Rather, mobile users will usually seek quick access to succinct information and services. Space on mobile phone screens is at a premium, and users have limited input mechanisms, so Mobile Web sites need to be easy to navigate using just the mobile phone keypad.
- Mobile phones have a broad range of different form factors, screen sizes and resolutions, all of which presents a challenge for the display and optimal viewing of content and advertising.

Mobile Messaging

Mobile messaging technology enables users to communicate in a so-called asynchronous manner, where messages are stored in the network and delivered to the recipient as soon as the recipient's mobile phone can receive it. Once delivered, the message is stored on the users' mobile phone. SMS (Short Messaging Service) allows a mobile user to send and receive a text message of up to 160 characters and across virtually any operator network. This service is also referred to as "text messaging" or "texting". All recent mobile phone models support SMS. As a result, the large installed base of SMS phones creates a large addressable market for SMS-based mobile marketing campaigns. MMS (Multimedia Messaging Service) is the rich media equivalent to SMS text messages. An MMS message can include graphics, photos, audio and video, in addition to text. MMS is not yet universally supported by all networks; however this market segment is growing. SMS and MMS services are together referred to as "mobile messaging" or "messaging". The stickiness of Mobile Messaging, the enormous reach of SMS and the rich media capabilities of MMS make this channel a highly rewarding advertising opportunity.

Mobile messaging represents an opportunity for advertising placement. Media publishers are using messaging to distribute mobile content. Businesses are providing consumer services through mobile messaging. These messages provide inventory into which advertisements can be inserted. In addition, it is now possible to purchase advertising in personal – person-to-person (P2P) – SMS and MMS messages.

Mobile devices have become one of the most widely used means of communication globally. Significant technological advancements have and are continuing to provide mobile users with increased access to features previously available only on PCs, such as Internet browsing, email and social networking. As mobile devices have evolved, they have begun to enable brands and advertising agencies to interact with consumers virtually anytime and anywhere, optimizing engagement with other traditional media while lowering the cost of customer acquisition and retention.

As a result, mobile devices have emerged as an important media method for brands and advertising agencies to interact with consumers. According to ABI Research, mobile marketing and advertising spending is expected to increase from \$1.64 billion in 2007 to nearly \$29 billion in 2014.

The Mobivity Solution

We remove three technical barriers to achieve the ultimate goal of engaging the consumer via their mobile devices:

- *Multimodal Communication:* Cell phones are used for voice conversations, to take pictures, sending and receiving SMS text messages, and several other tasks. Marketers and enterprises need to include multiple communication modalities when interacting with the mobile consumer. Engaging only one channel to the mobile consumer, for example SMS text messaging, will only result in a partial engagement with the consumer. We solve this problem via our carrier-grade integrated infrastructure delivering access to all modes of mobile communication from SMS to MMS to IVR and beyond.

- *Campaign Design and Management.* The ability to conceptualize, create, and execute mobile marketing campaigns or enterprise applications in an efficient manner is affected by software and tools available at any given time. Fragmented tool sets, costly service models, and prolonged time-to-market will impede and impair the growth of the industry. Our Web-based solution, "C4", is a unified services creation environment that enables brands and enterprises to create, manage, and report on campaigns through a set of hosted Web tools.

- *Analytics.* Fragmented analytic solutions (i.e. the lack of a uniform tool set used to analyze mobile consumers' preferences) only provide insights into disparate modalities of the mobile channel. For example, a Mobile Web analytics solution reveals a consumer's Internet consumption while neglecting that same consumer's SMS and Voice related activities. Our patent pending "Personalization Engine" leverages an innovative approach to gaining deep insight into mobile consumer activities and their associated profiles.

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We believe that we have a significant advantage over our main competitors for the following reasons:

- **Proprietary Technology:** Our proprietary, patent pending technology enables our customers to reach across all mobile phone interfaces. We continue to develop, design and deploy enterprise-grade software that we believe is more advanced than technologies developed by our competitors.
- **IVR and Voice Capabilities:** Our IVR and Voice capabilities allow marketers, content owners, and search operators the freedom of engaging mobile consumers outside of wireless carrier controlled messaging networks. In many instances our competitors have outsourced business to us to enable IVR features in their service offerings. This fundamental advantage has allowed us to quickly penetrate major brands.
- **In-house Expertise:** We believe that our primary technical advantage is that we've built most of our systems in-house, relieving us from costly software licensing fees associated with IVR platforms, SMS messaging and other platforms. For example, IVR software typically ranges from \$150 to \$1,000 per port, plus annual maintenance and support fees. Our current infrastructure supports over 10,000 IVR ports without any associated IVR licensing costs. In addition, there are unavoidable provisioning times for interconnecting with VOIP (voice over internet protocol) and PSTN (public switched telephone networks) that can take a minimum of 90 days, plus another 30 days for equipment provisioning.

Marketing and Sales

We believe that a successful marketing campaign addressed to mobile marketing and content operators, particularly large agencies and brands, is largely dependent on strong personal relationships with executives and a solutions-based sales approach. We intend to employ an executive level sales team capable of fostering direct relationships with brands while business development resources will focus on channel partnerships through IT systems integrators and marketing agencies. Due to expansion into the small and medium size enterprise (SME) market with the acquisition of Mobivity and Boomtext, we also intend to market our solutions to franchises and small individually owned businesses. We currently employ an inside sales team to exclusively market our SME product to this market segment.

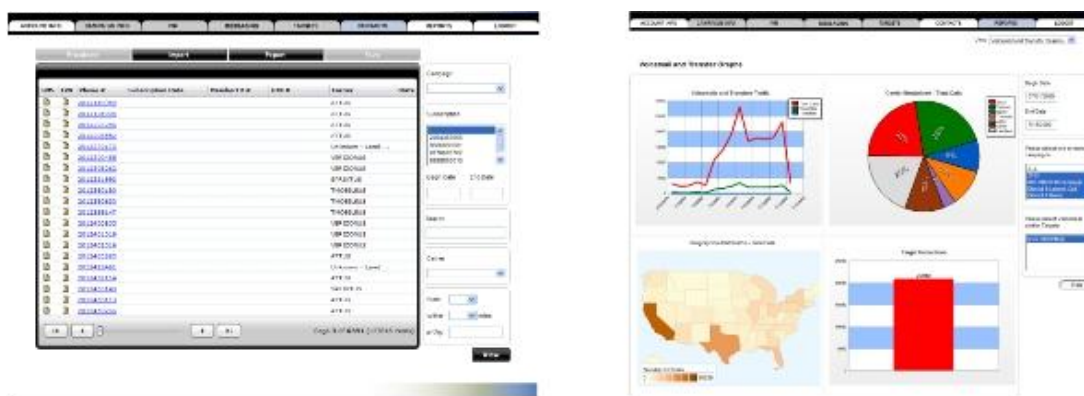
Certain minimum capitalization and financial levels are usually required by large enterprises when seeking technical vendors. Therefore, we intend to employ a partnership strategy in selling to large enterprises. Partnerships will allow us to sell into larger enterprises during our early growth period by avoiding having to meet these minimum capitalization levels.

We also intend to employ a small executive level sales team and continue our market leadership position with our large brand name client base establishing credibility and entre to prospective, targeted accounts across all vertical segments. As key accounts are won, and we begin to scale, our strategy will employ a core "Client Services" team to serve existing clients and drive revenue growth from existing business, while a direct sales force will be tasked with focusing exclusively on new client relationships.

Our Platform

We believe that the ability to conceptualize, create, and execute mobile marketing campaigns or enterprise applications are directly affected by software and tools available to design and deliver mobile messaging solutions efficiently and effectively. We also believe that fragmented tool sets, costly service models, and prolonged time-to-market will impede and impair the design and delivery of mobile messaging solutions.

Our Web-based solution, "C4", is a unified services creation environment empowering brands and enterprises with the ability to create, manage, and report on campaigns through a set of hosted Web tools.



Research and Development

We have built a strong internal software development team that has many years of experience in the mobile advertising and marketing industries. As of December 31, 2012, we had two engineers and software developers in our development centers located at our offices in Chandler, Arizona. Our recent research and development activities have been focused on enhancements to our platform. Current research and development initiatives continue to focus on extending our technology into payment processing, location based services, application analytics, and other technical opportunities in the evolving mobile industry.

We believe that having a dedicated, highly-trained advanced projects team enables us to effectively address the rapidly evolving mobile marketing and advertising services market.

Our total research and development expenditures in 2012 and 2011 were \$562,549 and \$347,884, respectively. We expect our total research and development expenditures in calendar year 2013 to be approximately \$600,000.

Competition

Although the market for mobile marketing and advertising solutions is relatively new, it is very competitive. We compete with companies of all sizes in select geographies that offer solutions that compete with single elements of our platform, such as mobile advertising networks, mobile ad serving and ad routing providers, mobile website and content creators, providers of mobile publishing and application development, SMS aggregators or providers of mobile analytics. We compete at times with interactive and traditional advertising agencies that perform mobile marketing and advertising as part of their services to their customers. Some of these entities have significantly greater resources than we do.

As a result of industry developments, some of our competitors may in the future create an integrated platform with features similar to ours, for example, Google, Inc.'s acquisition of Admob, Inc. in May 2010, Apple, Inc.'s acquisition of Quattro Wireless, Inc. in January 2010, and the entry of larger companies such as Nokia, AOL, Microsoft and Yahoo! into the mobile media markets.

We believe that the key competitive factors that our customers use in selecting solutions include the availability of:

- an integrated, scalable and relatively easy to implement platform that can expand the reach of their future campaigns;
- solutions providing high quality functionality that meet their immediate marketing and advertising needs;
- sophisticated analytics and reporting;
- competitive pricing;
- existing strategic relationships with customers globally;
- high levels of quality service and support; and
- a sophisticated and financially stable provider with a proven track record.

We believe that we compete favorably on each of these factors. Our extensive experience managing global marketing and advertising campaigns, together with experienced professional services to implement and integrate these options globally, provides us with an advantage that many of our competitors lack.

The consolidation of our competitors offering point solutions into larger organizations with increased resources is a recent trend in the industry. The effects of such acquisitions on the market are still unclear.

Seasonality

Our business, as is typical of companies in our industry, is highly seasonal. This is primarily due to traditional marketing and advertising spending being heaviest during the holiday season while brands, advertising agencies, mobile operators and media companies often close out annual budgets towards the end of the calendar year. Seasonal trends have historically contributed to, and we anticipate will continue to contribute to fluctuations in our quarterly results, including fluctuations in sequential revenue growth rates.

Intellectual Property

We regard the protection of our developed technologies and intellectual property rights as an important element of our business operations and as crucial to our success. We rely primarily on a combination of patent laws, trademark laws, copyright laws, trade secrets, confidentiality procedures and contractual provisions to protect our proprietary technology. We generally require our employees, consultants and advisors to enter into confidentiality agreements. These agreements provide that all confidential information developed or made known to the individual during the course of the individual's relationship with us is to be kept confidential and not disclosed to third parties except under specific circumstances. In the case of our employees, the agreements provide that all of the technology which is conceived by the individual during the course of employment is our exclusive property. The development of our technology and many of our processes are dependent upon the knowledge, experience and skills of key scientific and technical personnel.

As of December 31, 2012 we owned two patents. Additionally, we have two pending U.S. patent applications. U.S. Patent number *7991388 B1* was issued on August 2, 2011. This patent covers the Geo-Bio-Metric Pin, a service that authenticates a user from a feature phone or smart phone using a number of mobile attainable attributes: Geolocation, Facial Image, Accelerometer, and text messaging. The end goal of the Geo-Bio-Metric Pin service is to authenticate a user while verifying the following: 1) the user is currently using his/her phone; 2) the user is at the geolocation that their phone is at; 3) the user is not at another location and using their phone through a proxy; and 4) an impostor is not using the phone.

In March 2011, we acquired US Patent number *6788769 B1* which covers a method and system for using telephone numbers as a key to address email and online content without the use of a lookup database. Using this system, a phone number is used to access a website or an email address in exactly the same way it is used to dial a telephone.

U.S. Provisional Patent Application number *20070249369* was filed on April 25, 2007. This patent application is described as a system, method and apparatus for delivering Web content to a mobile telephone or related device by using a dialing code that is provided. In an exemplary embodiment, a user dials a telephone number, or other dialing code, and subsequently receives content sent to the user's mobile handset. In another embodiment, Web content sent to the user's phone via a Wireless Application Protocol (WAP) process.

U.S. Provisional Patent Application number *12/983284* was filed on December 8, 2010. This patent application describes a content delivery method and system comprising receiving, in a first communication mode, a request for information from a mobile device; sending, in the first communication mode, one or more content selection options; receiving, in the first communication mode, a selection in response to the one or more content selection options; and facilitating, in a second communication mode, delivery of content corresponding to the selection to the mobile device.

Any future patents that may issue may not survive a legal challenge to their scope, validity or enforceability, or provide significant protection for us. The failure of our patents, or our reliance upon copyright and trade secret laws to adequately protect our technology might make it easier for our competitors to offer similar products or technologies. In addition, patents may not issue from any of our current or any future applications.

Employees

As of March 1, 2013, we had twenty six full-time employees, two part-time employee and two contract employees. Sales, marketing, and business development functions are provided by thirteen full time employees and one part time employee. Engineering and research and development functions are provided by one full time employee, and one contract employee. Client Services functions are provided by eleven full time employees and one contract employee. General administration, finance, and executive management consist of five full time employees and one part time employee.

Government Regulation

Depending on the products and services that they offer, mobile data service providers may be subject to regulations and laws applicable to providers of mobile, Internet and VOIP services both domestically and internationally. In addition, the application of existing domestic and international laws and regulations relating to issues such as user privacy and data protection, defamation, pricing, advertising, taxation, gambling, sweepstakes, promotions, billing, real estate, consumer protection, accessibility, content regulation, quality of services, telecommunications, mobile, television and intellectual property ownership and infringement to wireless industry providers and platforms in many instances is unclear or unsettled. Further, the application of existing laws regulating or requiring licenses for certain businesses of our advertisers can be unclear.

It is possible that a number of laws and regulations may be adopted in the countries where we operate, which may be inconsistent and which could restrict the wireless communications industry, including laws and regulations regarding network management and device interconnection, lawful interception of personal data, taxation, content suitability, copyright, distribution and antitrust. Furthermore, the growth and development of the market for electronic storage of personal information may prompt calls for more stringent consumer protection laws that may impose additional burdens on companies that store personal information. We anticipate that regulation of our industry generally will increase and that we will be required to devote legal and other resources to address this regulation.

We are directly subject to certain regulations and laws applicable to providers of Internet and mobile services both domestically and internationally. The application of existing domestic and international laws and regulations relating to issues such as user privacy and data protection, marketing, advertising, consumer protection and mobile disclosures in many instances is unclear or unsettled.

United States Regulatory Environment

In addition to its regulation of wireless telecommunications providers generally, the U.S. Federal Communications Commission, or FCC, has shown interest in at least three areas that impact our business: research and development with regards to innovation, competition in the wireless industry and consumer protection with an emphasis on truth-in-billing. The FCC has examined, or is currently examining, how and when consumers enroll in mobile services, what types of disclosures consumers receive, what services consumers are purchasing and how much consumers are charged. In addition, the Federal Trade Commission, or FTC, has been asked to regulate how mobile marketers can use consumers' personal information. Consumer advocates claim that many consumers do not know when their information is being collected from cell phones and how such information is retained, used and shared with other companies. Consumer groups have asked the FTC to identify practices that may compromise privacy and consumer welfare; examine opt-in procedures to ensure consumers are aware of what data is at issue and how it will be used; investigate marketing tactics that target children and create policies to halt abusive practices. The FTC has expressed interest in particular in the mobile environment and services that collect sensitive data, such as location-based information.

- *Deceptive Trade Practice Law in the U.S.* The FTC and state attorneys general are given broad powers by legislatures to curb unfair and deceptive trade practices. These laws and regulations apply to mobile marketing campaigns and behavioral advertising. The general guideline is that all material terms and conditions of the offer must be "clearly and conspicuously" disclosed to the consumer prior to the buying decision. The balancing of the desire to capture a potential customer's attention, while providing adequate disclosure, can be even more challenging in the mobile context due to the lack of space.
- *Behavioral Advertising.* Behavioral advertising is a technique used by online publishers and advertisers to increase the effectiveness of their campaigns. Behavioral advertising uses information collected from an individual's web-browsing behavior, such as the pages they have visited or the searches they have made, to select which advertisements to display to that individual. This data can be valuable for online marketers looking to personalize advertising initiatives or to provide geo-tags through mobile devices. Many businesses adhere to industry self-governing principles, including an opt-out regime whereby information may be collected until an individual indicates that he or she no longer agrees to have this information collected. The FTC and EU member states are considering regulations in this area, which may include implementation of a more rigorous opt-in regime. An opt-in policy would prohibit businesses from collecting and using information from individuals who have not voluntarily consented. Among other things, the implementation of an opt-in regime could require substantial technical support and negatively impact the market for our mobile advertising products and services. A few states have also introduced bills in recent years that would restrict behavioral advertising within the state. These bills would likely have the practical effect of regulating behavioral advertising nationwide because of the difficulties behind implementing state-specific policies or identifying the location of a particular consumer. There have also been a large number of class action suits filed against companies engaged in behavioral advertising.

- *Behavioral Advertising-Privacy Regulation.* Our business is affected by U.S. federal and U.S. state, as well as EU member state and foreign country, laws and regulations governing the collection, use, retention, sharing and security of data that we receive from and about our users. In recent years, regulation has focused on the collection, use, disclosure and security of information that may be used to identify or that actually identifies an individual, such as an Internet Protocol address or a name. Although the mobile and Internet advertising privacy practices are currently largely self-regulated in the U.S., the FTC has conducted numerous discussions on this subject and suggested that more rigorous privacy regulation is appropriate, including regulation of non-personally identifiable information which could, with other information, be used to identify an individual. Within the EU, member state data protection authorities typically regard IP addresses as personal information, and legislation adopted recently in the EU requires consent for the placement of a cookie on a user device. In addition, EU data protection authorities are following with interest the FTC's discussions regarding behavioral advertising and may follow suit by imposing additional privacy requirements for mobile advertising practices.
- *Marketing-Privacy Regulation.* In addition, there are U.S. federal and state laws and EU member state and other country laws that govern SMS and telecommunications-based marketing, generally requiring senders to transmit messages (including those sent to mobile devices) only to recipients who have specifically consented to receiving such messages. U.S. federal, EU member state and other country laws also govern e-mail marketing, generally imposing an opt-out requirement for emails sent within an existing business relationship.
- *SMS and Location-Based Marketing Best Practices and Guidelines.* We are a member of the Mobile Marketing Association, or MMA, a global association of 700 agencies, advertisers, mobile device manufacturers, wireless operators and service providers and others interested in the potential of marketing via the mobile channel. The MMA has published a code of conduct and best practices guidelines for use by those involved in mobile messaging activities. The guidelines were developed by a collaboration of the major carriers and they require adherence to them as a condition of service. We voluntarily comply with the MMA code of conduct. In addition, the Cellular Telephone Industry Association, or CTIA, has developed Best Practices and Guidelines to promote and protect user privacy regarding location-based services. We also voluntarily comply with those guidelines, which generally require notice and user consent for delivery of location-based services.
- *TCPA.* The United States Telephone Consumer Protection Act, or TCPA, prohibits unsolicited voice and text calls to cell phones through the use of an automatic telephone-dialing system (ATDS) unless the recipient has given prior consent. The statute also prohibits companies from initiating telephone solicitations to individuals on the national Do-Not-Call list, and restricts the hours when such messages may be sent. Violations of the TCPA can result in statutory damages of \$500 per violation (i.e., for each individual text message). U.S. state laws impose additional regulations on voice and text calls. We believe that our platform does not employ an ATDS within the meaning of the TCPA based on case law construing that term.
- *CAN-SPAM.* The U.S. Controlling the Assault of Non-Solicited Pornography and Marketing Act, or CAN SPAM Act, prohibits all commercial e-mail messages, as defined in the law, to mobile phones unless the device owner has given "express prior authorization." Recipients of such messages must also be allowed to opt-out of receiving future messages the same way they opted-in. Senders have ten business days to honor opt-out requests. The FCC has compiled a list of domain names used by wireless service providers to which marketers may not send commercial e-mail messages. Senders have 30 days from the date the domain name is posted on the FCC site to stop sending unauthorized commercial e-mail to addresses containing the domain name. Violators are subject to fines of up to \$6.0 million and up to one year in jail for some spamming activities. Carriers, the FTC, the FCC, and State Attorneys General may bring lawsuits to enforce alleged violations of the Act.
- *Communications Privacy Acts.* Foreign, U.S. federal and U.S. state laws impose liability for intercepting communications while in transit or accessing the contents of communications while in storage. EU member state laws also require consent for our receiving this information, and if our carrier customers fail to obtain such consent we could be subjected to civil or even criminal penalties.

- *Security Breach Notification Requirements.* EU member state laws require notice to the member state data protection authority of a data security breach involving personal data if the breach poses a risk to individuals. In addition, Germany recently enacted a broad requirement to notify individuals in the event of a data security breach that is likely to be followed by notification requirements to data subjects in other EU member states. In the U.S., various states have enacted data breach notification laws, which require notification of individuals and sometimes state regulatory bodies in the event of breaches involving certain defined categories of personal information. Japan and Uruguay have also recently enacted security breach notice requirements. This new trend suggests that breach notice statutes may be enacted in other jurisdictions, including by the U.S. at the federal level, as well.
- *Children.* U.S. federal privacy regulations implementing the Children's Online Privacy Protection Act prohibit the knowing collection of personal information from children under the age of 13 without verifiable parental consent, and strictly regulate the transmission of requests for personal information to such children. Other countries do not recognize the ability of children to consent to the collection of personal information. In addition, it is likely that behavioral advertising regulations will impose special restrictions on use of information collected from minors for this purpose.

Item 1A. Risk Factors.

Risks Related to our Business

We will need additional capital to execute our business plan and fund operations, and we may not be able to obtain such capital on acceptable terms or at all.

As of December 31, 2012, we had current assets of \$445,043, including \$363 in cash, and current liabilities of \$9,740,026, resulting in negative working capital of \$9,294,983.

Our current assets have decreased and our negative working capital position has increased as a result of continuing losses from operations. As of the date of this report, and assuming revenue projections for the 4th quarter 2012 and 1st quarter of 2013 are attained, we believe we have working capital on hand and projected cash equivalents sufficient to fund our current level of operations through June 2013.

We believe that we require approximately \$500,000 of additional working capital in order to fund our current level of operations over the next 12 months. This estimate assumes that we can convince the holders of our investment notes, in the aggregate principal amount of \$4,342,418, to convert the principal and accrued interest into shares of our equity securities. If we are unsuccessful in doing so, our working capital requirements will increase commensurately. While our priority is on generating additional working capital from operations through the sale of our services, we are also seeking to raise additional working capital through various financing sources, including the sale of our equity and debt securities and, subject to our commencement of profitable operations, the procurement of commercial debt financing. However, there can be no guarantees that such funds will be available on commercially reasonable terms, if at all. If such financing is not available on satisfactory terms, we will be unable to continue our business as desired and operating results will be adversely affected. In addition, any financing arrangement may have potentially adverse effects on us or our stockholders. Debt financing (if available and undertaken) will increase expenses, must be repaid regardless of operating results and may involve restrictions limiting our operating flexibility. If we issue equity securities to raise additional funds, the percentage ownership of our existing stockholders will be reduced and the new equity securities may have rights, preferences or privileges senior to those of the holders of our common stock.

The report of our independent registered public accounting firm for the fiscal year ended December 31, 2012, included herein, states that due to our recurring operating losses from operations, negative cash flows from operations and dependence on additional financing to fund operations, there is substantial doubt about our ability to continue as a going concern.

We may not be successful in executing our acquisition strategy.

Our future growth will largely depend on the successful continued execution of our acquisition strategy. If we are unable to acquire other companies in the mobile marketing sector, our growth, valuation and prospects will be adversely affected. It is possible that acquisition targets will not be receptive to either the valuation offered or our intention to pay for acquisitions using our common stock as the “currency”. If we are unable to grow other than organically, our growth prospects will be reduced and our ability to raise capital on acceptable terms and the value of our common stock will both be compromised.

In addition, our future acquisitions may be expensive and time-consuming and we may not realize anticipated benefits from them. The specific risks we may encounter in these types of transactions include the following:

- Potentially dilutive issuances of our securities, the incurrence of debt and contingent liabilities and amortization expenses related to intangible assets, which could adversely affect our results of operations and financial condition;
- The possibility that staff or customers of the acquired company might not accept new ownership and may transition to different technologies or attempt to renegotiate contract terms or relationships;
- The possibility that the due diligence process in any such acquisition may not completely identify material issues associated with product and service quality, intellectual property issues, key personnel issues or legal and financial contingencies; and
- Difficulty in integrating acquired operations due to technology constraints or geographical distance.

A failure to successfully integrate acquired businesses for any of these reasons could have a material adverse effect on our results of operations.

We may not have the liquidity to settle our bridge notes at maturity.

The outstanding principal on our bridge notes totals \$4,342,418 at December 31, 2012, and the entire principal and accrued interest at 10% annually are due April 15, 2013. As of the date of this report, we do not have the ability repay the bridge notes, there is no certainty that we will have the liquidity necessary to settle the bridge notes including accrued interest at the maturity date, nor is it certain that the bridge lenders will agree to an extension of the maturity date or an accommodation favorable to us. Our obligations under the bridge notes are secured by all of our assets. If we are unable to repay or refinance our obligations under those notes by April 15, 2013, the holders of the notes will have the right to foreclose on their security interests and seize our assets. To avoid such an event, we may be forced to seek bankruptcy protection, however a bankruptcy filing would, in all likelihood, materially adversely affect our ability to continue our current level of operations. In the event we are not able to refinance or repay the notes, but negotiate for a further extension of the maturity date of the notes, we may be required to pay significant extension fees in cash of shares of our equity securities or otherwise make other forms of concessions that may adversely impact the interests of our common stockholders.

Our sales efforts to large enterprises require significant time and effort and could hinder our ability to expand our customer base and increase revenue.

Attracting new customers to our large enterprise division requires substantial time and expense, especially in an industry that is so heavily dependent on personal relationships with executives. We cannot assure that we will be successful in establishing new relationships, or maintaining or advancing our current relationships. For example, it may be difficult to identify, engage and market to customers who do not currently perform mobile marketing or advertising or are unfamiliar with our current services or platform. Further, many of our customers typically require input from one or more internal levels of approval. As a result, during our sales effort, we must identify multiple people involved in the purchasing decision and devote a sufficient amount of time to presenting our products and services to those individuals. The complexity of our services, including our software-as-a-service model, often requires us to spend substantial time and effort assisting potential customers in evaluating our products and services including providing demonstrations and benchmarking against other available technologies. We expect that our sales process will become less burdensome as our products and services become more widely known and used. However, if this change does not occur, we will not be able to expand our sales effort as quickly as anticipated and our sales will be adversely affected.

We may not be able to enhance our mobile marketing and advertising platform to keep pace with technological and market developments, or to remain competitive against potential new entrants in our markets.

The market for mobile marketing and advertising services is emerging and is characterized by rapid technological change, evolving industry standards, frequent new product introductions and short product life cycles. Our current platform or platforms we may offer in the future may not be acceptable to marketers and advertisers. To keep pace with technological developments, satisfy increasing customer requirements and achieve acceptance of our marketing and advertising campaigns, we will need to enhance our current mobile marketing solutions and continue to develop and introduce on a timely basis new, innovative mobile marketing services offering compatibility, enhanced features and functionality on a timely basis at competitive prices. Our inability, for technological or other reasons, to enhance, develop, introduce and deliver compelling mobile marketing services in a timely manner, or at all, in response to changing market conditions, technologies or customer expectations could have a material adverse effect on our operating results or could result in our mobile marketing services platform becoming obsolete. Our ability to compete successfully will depend in large measure on our ability to maintain a technically skilled development and engineering staff and to adapt to technological changes and advances in the industry, including providing for the continued compatibility of our mobile marketing services platform with evolving industry standards and protocols. In addition, as we believe the mobile marketing market is likely to grow substantially, other companies which are larger and have significantly more capital to invest than us may emerge as competitors. For example, in May 2010, Google, Inc. acquired Admob, Inc. Similarly, in January 2010, Apple, Inc. acquired Quattro Wireless, Inc. New entrants could seek to gain market share by introducing new technology or reducing pricing. This may make it more difficult for us to sell our products and services, and could result in increased pricing pressure, reduced profit margins, increased sales and marketing expenses or the loss of market share or expected market share, any of which may significantly harm our business, operating results and financial condition.

Our Enterprise customer contracts lack uniformity and often are complex, which subjects us to business and other risks.

A portion of our customers include some of the largest enterprises which have substantial purchasing power and negotiating leverage. As a result, we typically negotiate contracts on a customer-by-customer basis and our contracts lack uniformity and are often complex. If we are unable to effectively negotiate, enforce and account and bill in an accurate and timely manner for contracts with our key customers, our business and operating results may be adversely affected. In addition, we could be unable to timely recognize revenue from contracts that are not managed effectively and this would further adversely impact our financial results.

Our services are provided on mobile communications networks that are owned and operated by third parties who we do not control and the failure of any of these networks would adversely affect our ability to deliver our services to our customers.

Our mobile marketing and advertising platform is dependent on the reliability of mobile operators who maintain sophisticated and complex mobile networks. Such mobile networks have historically, and particularly in recent years, been subject to both rapid growth and technological change. If the network of a mobile operator with which we are integrated should fail, including because of new technology incompatibility, the degradation of network performance under the strain of too many mobile consumers using it, or a general failure from natural disaster or political or regulatory shut-down, we will not be able provide our services to our customers through such mobile network. This in turn, would impair our reputation and business, potentially resulting in a material, adverse effect on our financial results.

If our mobile marketing and advertising services platform does not scale as anticipated, our business will be harmed.

We must be able to continue to scale to support potential ongoing substantial increases in the number of users in our actual commercial environment, and maintain a stable service infrastructure and reliable service delivery for our mobile marketing and advertising campaigns. In addition, we must continue to expand our service infrastructure to handle growth in customers and usage. If our mobile marketing services platform does not efficiently and effectively scale to support and manage a substantial increase in the number of users while maintaining a high level of performance, the quality of our services could decline and our business will be seriously harmed. In addition, if we are unable to secure data center space with appropriate power, cooling and bandwidth capacity, we may not be able to efficiently and effectively scale our business to manage the addition of new customers and overall mobile marketing campaigns.

The success of our business depends, in part, on wireless carriers continuing to accept our customers' messages for delivery to their subscriber base.

We depend on wireless carriers to deliver our customers' messages to their subscriber base. Wireless carriers often impose standards of conduct or practice that significantly exceed current legal requirements and potentially classify our messages as "spam," even where we do not agree with that conclusion. In addition, the wireless carriers use technical and other measures to attempt to block non-compliant senders from transmitting messages to their customers; for example, wireless carriers block short codes or Internet Protocol addresses associated with those senders. There can be no guarantee that we, or short codes registered to us, will not be blocked or blacklisted or that we will be able to successfully remove ourselves from those lists. Although our services typically require customers to opt-in to a campaign, minimizing the risk that our customers' messages will be characterized as spam, blocking of this type could interfere with our ability to market products and services of our customers and communicate with end users and could undermine the effectiveness of our customers' marketing campaigns. To date we have not experienced any material blocking of our messages by wireless carriers, but any such blocking could have an adverse effect on our business and results of operations.

We depend on third party providers for a reliable Internet infrastructure and the failure of these third parties, or the Internet in general, for any reason would significantly impair our ability to conduct our business.

We outsource all of our data center facility management to third parties who host the actual servers and provide power and security in multiple data centers in each geographic location. These third party facilities require uninterrupted access to the Internet. If the operation of our servers is interrupted for any reason, including natural disaster, financial insolvency of a third party provider, or malicious electronic intrusion into the data center, our business would be significantly damaged. As has occurred with many Internet-based businesses, on occasion in the past, we have been subject to "denial-of-service" attacks in which unknown individuals bombarded our computer servers with requests for data, thereby degrading the servers' performance. While we have historically been successful in relatively quickly identifying and neutralizing these attacks, we cannot be certain that we will be able to do so in the future. If either a third party facility failed, or our ability to access the Internet was interfered with because of the failure of Internet equipment in general or we become subject to malicious attacks of computer intruders, our business and operating results will be materially adversely affected.

Failure to adequately manage our growth may seriously harm our business.

We operate in an emerging technology market and have experienced, and may continue to experience, significant growth in our business. If we do not effectively manage our growth, the quality of our products and services may suffer, which could negatively affect our brand and operating results. Our growth has placed, and is expected to continue to place, a significant strain on our managerial, administrative, operational and financial resources and our infrastructure. Our future success will depend, in part, upon the ability of our senior management to manage growth effectively. This will require us to, among other things:

- implement additional management information systems;
- further develop our operating, administrative, legal, financial and accounting systems and controls;
- hire additional personnel;
- develop additional levels of management within our company;
- locate additional office space in various countries; and
- maintain close coordination among our engineering, operations, legal, finance, sales and marketing and customer service and support organizations.

Moreover, as our sales increase, we may be required to concurrently deploy our services infrastructure at multiple additional locations or provide increased levels of customization. As a result, we may lack the resources to deploy our mobile marketing services on a timely and cost-effective basis. Failure to accomplish any of these requirements would seriously harm our ability to deliver our mobile marketing services platform in a timely fashion, fulfill existing customer commitments or attract and retain new customers.

We depend on the services of key personnel to implement our strategy. If we lose the services of our key personnel or are unable to attract and retain other qualified personnel, we may be unable to implement our strategy.

We believe that the future success of our business depends on the services of a number of key management and operating personnel, including Dennis Becker, our Chief Executive Officer, Timothy Schatz, our Chief Financial Officer, Jonathan Twomley, our Director of Engineering, and Michael Falato, Senior Vice President of Business Development. We currently have employment agreements in place with Mr. Becker and Mr. Schatz. We do not maintain any key-person life insurance policies. Some of these key employees have strong relationships with our customers and our business may be harmed if these employees leave us. The loss of members of our key management and certain other members of our operating personnel could materially adversely affect our business, operating results and financial condition.

In addition, our ability to manage our growth depends, in part, on our ability to identify, hire and retain additional qualified employees, including a technically skilled development and engineering staff. We face intense competition for qualified individuals from numerous technology, marketing and mobile software and service companies. We require a mix of highly talented engineers as well as individuals in sales and support who are familiar with the marketing and advertising industry. In addition, new hires in sales positions require significant training and may, in some cases, take more than a year before they achieve full productivity. Our recent sales force hires and planned hires may not become as productive as we would like, and we may be unable to hire sufficient numbers of qualified individuals in the future in the markets where we do business. Further, given the rapid pace of our expansion to date, we may be unable to attract and retain suitably qualified individuals who are capable of meeting our growing, creative, operational and managerial requirements, or may be required to pay increased compensation in order to do so. If we are unsuccessful in attracting and retaining these key personnel, our ability to operate our business effectively would be negatively impacted and our business, operating results and financial condition would be adversely affected.

The gathering, transmission, storage and sharing or use of personal information could give rise to liabilities or additional costs of operation as a result of governmental regulation, legal requirements, civil actions or differing views of personal privacy rights.

We transmit and store a large volume of personal information in the course of providing our services. Federal, state and international laws and regulations govern the collection, use, retention, sharing and security of data that we receive from our customers and their users. Any failure, or perceived failure, by us to comply with U.S. federal, state, or international privacy or consumer protection-related laws, regulations or industry self-regulatory principles could result in proceedings or actions against us by governmental entities or others, which could potentially have an adverse effect on our business, operating results and financial condition. Additionally, we may also be contractually liable to indemnify and hold harmless our customers from the costs or consequences of inadvertent or unauthorized disclosure of their customers' personal data which we store or handle as part of providing our services.

The interpretation and application of privacy, data protection and data retention laws and regulations are currently unsettled in the U.S. and internationally, particularly with regard to location-based services, use of customer data to target advertisements and communication with consumers via mobile devices. Such laws may be interpreted and applied inconsistently from country to country and inconsistently with our current data protection policies and practices. Complying with these varying international requirements could cause us to incur substantial costs or require us to change our business practices in a manner adverse to our business, operating results or financial condition.

As privacy and data protection have become more sensitive issues, we may also become exposed to potential liabilities as a result of differing views on the privacy of personal information. These and other privacy concerns, including security breaches, could adversely impact our business, operating results and financial condition.

In the U.S., we have voluntarily agreed to comply with wireless carrier technological and other requirements for access to their customers' mobile devices, and also trade association guidelines and codes of conduct addressing the provision of location-based services, delivery of promotional content to mobile devices and tracking of users or devices for the purpose of delivering targeted advertising. We could be adversely affected by changes to these requirements, guidelines and codes, including in ways that are inconsistent with our practices or in conflict with the rules or guidelines in other jurisdictions.

Our management team has limited experience in public company matters, which could impair our ability to comply with legal and regulatory requirements.

Our management team has only limited public company management experience or responsibilities, which could impair our ability to comply with legal and regulatory requirements such as the Sarbanes-Oxley Act of 2002 and applicable federal securities laws including filing required reports and other information required on a timely basis. There can be no assurance that our management will be able to implement and affect programs and policies in an effective and timely manner that adequately respond to increased legal, regulatory compliance and reporting requirements imposed by such laws and regulations. Our failure to comply with such laws and regulations could lead to the imposition of fines and penalties and further result in the deterioration of our business.

Risks Related to our Common Stock

There has been a limited trading market for our common stock.

There has been a limited trading market for our common stock on the Over-the-Counter Bulletin Board. The lack of an active market may impair the ability to sell your shares at the time you wish to sell them or at a price that you consider reasonable. The lack of an active market may also reduce the fair market value of your shares. An inactive market may also impair our ability to raise capital by selling shares of capital stock and may impair our ability to acquire other companies or technologies by using common stock as consideration.

Our freely trading share volume will increase significantly.

We have issued and intend to continue to issue additional common shares in the execution of our acquisition strategy, both increasing the number of free trading shares and dilution. This increase in both free trading shares and total shares outstanding may have a depressive effect on our stock price and a deleterious effect on our ability to both raise additional equity capital and complete acquisitions using our common stock as the principal currency.

You may have difficulty trading and obtaining quotations for our common stock.

Our common stock may not be actively traded, and the bid and asked prices for our common stock on the Over-the-Counter Bulletin Board may fluctuate widely. As a result, investors may find it difficult to dispose of, or to obtain accurate quotations of the price of, our securities. This severely limits the liquidity of the common stock, and would likely reduce the market price of our common stock and hamper our ability to raise additional capital.

The market price of our common stock may be, and is likely to continue to be, highly volatile and subject to wide fluctuations.

The market price of our common stock is likely to be highly volatile and could be subject to wide fluctuations in response to a number of factors that are beyond our control, including:

- dilution caused by our issuance of additional shares of common stock and other forms of equity securities, which we expect to make in connection with future acquisitions or capital financings to fund our operations and growth, to attract and retain valuable personnel and in connection with future strategic partnerships with other companies;
- announcements of new acquisitions or other business initiatives by our competitors;
- our ability to take advantage of new acquisitions or other business initiatives;
- quarterly variations in our revenues and operating expenses;
- changes in the valuation of similarly situated companies, both in our industry and in other industries;
- changes in analysts' estimates affecting us, our competitors and/or our industry;
- changes in the accounting methods used in or otherwise affecting our industry;
- additions and departures of key personnel;
- announcements by relevant governments pertaining to additional quota restrictions; and
- fluctuations in interest rates and the availability of capital in the capital markets.

Some of these factors are beyond our control, and the impact of these risks, singly or in the aggregate, may result in material adverse changes to the market price of our common stock and/or our results of operations and financial condition.

Our operating results may fluctuate significantly, and these fluctuations may cause our stock price to decline.

Our operating results will likely vary in the future primarily as the result of fluctuations in our revenues and operating expenses, expenses that we incur, prices of feed used in our business, the price that customer are willing and able to pay for our products and other factors. If our results of operations do not meet the expectations of current or potential investors, the price of our common stock may decline.

We do not expect to pay dividends in the foreseeable future.

We do not intend to declare dividends for the foreseeable future, as we anticipate that we will reinvest any future earnings in the development and growth of our business. Therefore, investors will not receive any funds unless they sell their common stock, and stockholders may be unable to sell their shares on favorable terms or at all. Investors cannot be assured of a positive return on investment or that they will not lose the entire amount of their investment in the common stock.

Our directors and officers will have a high concentration of common stock ownership.

Based on the 23,218,117 shares of common stock that are outstanding as of December 31, 2012, our officers and directors will beneficially own approximately 33.1% of our outstanding common stock. Such a high level of ownership by such persons may have a significant effect in delaying, deferring or preventing any potential change in control of our company. Additionally, as a result of their high level of ownership, our officers and directors might be able to strongly influence the actions of our board of directors and the outcome of actions brought to our shareholders for approval. Such a high level of ownership may adversely affect the voting and other rights of our shareholders.

Applicable SEC rules governing the trading of “penny stocks” limit the trading and liquidity of our common stock, which may affect the trading price of our common stock.

Shares of common stock may be considered a “penny stock” and be subject to SEC rules and regulations which impose limitations upon the manner in which such shares may be publicly traded and regulate broker-dealer practices in connection with transactions in “penny stocks.” Penny stocks generally are equity securities with a price of less than \$5.00 (other than securities registered on certain national securities exchanges or quoted on the NASDAQ system, provided that current price and volume information with respect to transactions in such securities is provided by the exchange or system). The penny stock rules require a broker-dealer, prior to a transaction in a penny stock not otherwise exempt from the rules, to deliver a standardized risk disclosure document that provides information about penny stocks and the risks in the penny stock market. The broker-dealer must also provide the customer with current bid and offer quotations for the penny stock, the compensation of the broker-dealer and its salesperson in the transaction, and monthly account statements showing the market value of each penny stock held in the customer’s account. In addition, the penny stock rules generally require that prior to a transaction in a penny stock, the broker-dealer make a special written determination that the penny stock is a suitable investment for the purchaser and receive the purchaser’s written agreement to the transaction. These disclosure requirements may have the effect of reducing the level of trading activity in the secondary market for a stock that becomes subject to the penny stock rules which may increase the difficulty investors may experience in attempting to liquidate such securities.

Item 2. Properties

We currently lease 6,730 square feet of office space located at 58 W. Buffalo St., Chandler, Arizona. Monthly rental payments, excluding common area maintenance charges, are \$11,557 in 2013, \$11,958 in 2014 and \$12,357 in 2015. The 63 month lease term expires December 31, 2015. We believe the property is sufficient for our needs at this time.

We also lease approximately 400 square feet of satellite office space located at 10251 Vista Sorrento Pkwy, San Diego, California, at a monthly expense of \$1,800, on a month to month basis.

Item 3. Legal Proceedings

As of the date of this report, there are no pending legal proceedings to which we or our properties are subject, except for routine litigation incurred in the normal course of business, except as set forth below.

In September 2012, we initiated litigation against a former client (the “Defendant”) for failure to pay our invoices for services rendered under our Master License and Services Agreement. The complaint was filed in Superior Court of California, San Diego County. The litigation seeks to recover \$67,795 in services and interest penalties. As of March 1, 2013 the Company is in negotiation with the Defendant’s counsel to settle the debt.

Item 4. Removed and Reserved

Part II

Item 5. Market for Registrant’s Common Equity, Related Stockholder Matter and Issuer Purchases of Equity Securities

Our common stock has been included for quotation on the OTC Bulletin Board under the stock symbol “MFON” since December 9, 2010. From January 2010 to that date, our stock was traded on the OTC.BB under the symbol “AREV”.

Our common stock trades only sporadically and has experienced in the past, and is expected to experience in the future, significant price and volume volatility.

The following table shows the reported high and low closing bid quotations per share for our common stock based on information provided by the OTC Bulletin Board for the periods indicated. Quotations reflect inter-dealer prices, without markup, markdown or commissions and may not represent actual transactions.

| Year Ended December 31, 2012 | High | Low |
|------------------------------|---------|---------|
| Fourth Quarter | \$ 0.43 | \$ 0.22 |
| Third Quarter | \$ 0.62 | \$ 0.26 |
| Second Quarter | \$ 1.04 | \$ 0.59 |
| First Quarter | \$ 1.50 | \$ 1.00 |
| Year Ended December 31, 2011 | High | Low |
| Fourth Quarter | \$ 1.60 | \$ 0.37 |
| Third Quarter | \$ 2.00 | \$ 1.10 |
| Second Quarter | \$ 3.35 | \$ 1.25 |
| First Quarter | \$ 4.25 | \$ 1.45 |

Holders of Record

As of March 1, 2013, there were approximately 53 holders of record of our common stock, not including shares held in street name.

Dividend Policy

We paid no cash dividends in respect of our common stock during our two most recent fiscal years, and we have no plans to pay any dividends or make any other distributions in the foreseeable future. The payment by us of dividends, if any, in the future, rests within the discretion of our board of directors and will depend, among other things, upon our earnings, capital requirements and financial condition.

Stock Repurchases

We did not repurchase any of our common stock in 2012 or 2011.

Securities Authorized for Issuance Under Equity Compensation Plans

The following table sets forth additional information as of December 31, 2012 with respect to the shares of common stock that may be issued upon the exercise of options and other rights under our existing equity compensation plans and arrangements in effect December 31, 2012. The information includes the number of shares covered by, and the weighted average exercise price of, outstanding options and the number of shares remaining available for future grant, excluding the shares to be issued upon exercise of outstanding options.

| <u>Plan Category</u> | <u>Number of securities to be issued upon exercise of outstanding options</u> | <u>Weighted-average exercise price of outstanding options</u> | <u>Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a))</u> |
|---|---|---|--|
| | <u>(a)</u> | <u>(b)</u> | <u>(c)</u> |
| Equity compensation plans not approved by security holders ⁽¹⁾ | 2,860,000 | \$ 0.63 | 264,000 |
| Total | <u>2,860,000</u> | <u>\$ 0.63</u> | <u>264,000</u> |

(1) Comprised of our 2010 Incentive Stock Plan

Item 6. Selected Financial Data

As a smaller reporting company, as defined by Section 10(f)(1) of Regulation S-K we are not required to provide the information set forth in this Item.

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

The following discussion and analysis of our financial condition and results of operations should be read in conjunction with the financial statements and the related notes and other information that are included elsewhere in this Form 10-K. This discussion contains forward looking statements based upon current expectations that involve risks and uncertainties, such as our plans, objectives, expectations, and intentions. Actual results and the timing of events could differ materially from those anticipated in these forward looking statements as a result of a number of factors, including those set forth under the cautionary note regarding "Forward Looking Statements" contained elsewhere in this Form 10-K. Additionally, you should read the "Risk Factors" sections of this Form 10-K for a discussion of important factors that could cause actual results to differ materially from the results described or implied by the forward-looking statements contained in the following discussion and analysis.

Overview

We are a provider of technology that enables major brands and enterprises to engage consumers via their mobile phone. Interactive electronic communications with consumers is a complex process involving communication networks and software. We remove this complexity through our suite of services and technologies thereby enabling brands, marketers, and content owners to communicate with their customers and consumers in general. From Presidential elections to major broadcast events, we are pioneers in the deployment of the mobile channel as the ultimate direct connection to the consumer.

Mobile phone users represent a large and captive audience. While televisions, radios, and even PCs are often shared by multiple consumers, mobile phones are personal devices representing a truly unique and individual address to the end user. We believe the future of digital media will be significantly influenced by mobile phones where a direct, personal conversation can be had with the world's largest audience. The future of mobile includes banking, commerce, advertising, video, games and just about every other aspect of both on and offline life. Over 4 million consumers have been engaged via their mobile device thanks to our technology.

We believe that our mobile marketing and advertising campaign platform is among the most advanced in the industry as it allows real time interactive communications with consumers. We generate revenue from licensing our software to clients in our software as a service (SaaS) model, per-message and per-minute transactional fees, and customized professional services.

Our "C4" Mobile Marketing and Customer Relationship Management (CRM) platform is a hosted solution enabling our clients to develop, execute, and manage a variety of engagements to a consumer's mobile phone. Short Messaging Service (SMS), Multi-Media Messaging (MMS), and Interactive Voice Response (IVR) interactions can all be facilitated via a set of Graphical User Interfaces (GUIs). Reporting and analytics capabilities are also available to our users through the C4 solution.

We believe mobile devices are emerging as an important interactive channel for brands to reach consumers since it is the only media platform that has access to the consumer virtually anytime and anywhere. Brands and advertising agencies are recognizing the unique benefits of the mobile channel and they are increasingly integrating mobile media within their overall advertising and marketing campaigns. Our objective is to become the industry leader in connecting brands and enterprises to consumers' mobile phones.

Recent Events

Txtstation Acquisition

In April 2011, we acquired substantially all of the assets of the Txtstation interactive mobile marketing platform and services business from Adspaq Limited ("Adspaq"). The purchase price for the acquisition was 2,125,000 shares of our common stock and \$300,000 in cash. Of the cash portion, \$50,000 was paid at closing, with an additional \$25,000 payable on the 60th day following closing. The balance was payable in \$25,000 installments at the end of each of the next nine 30-day periods thereafter. We assumed none of Adspaq's liabilities in the transaction. For a period of one year following the closing of the transaction, half of the shares of common stock issued to Adspaq were held in escrow as security for Adspaq's obligations under the agreement.

In connection with the transaction, we also issued 300,000 shares of our common stock to the controlling stockholder of Adspaq in consideration of certain indemnification obligations and other agreements. For one year following the closing of the transaction, the shareholder agreed not to, directly or indirectly, transfer, donate, sell, assign, pledge, hypothecate, grant a security interest in or otherwise dispose or attempt to dispose of all or any portion of shares issued to it (or any interest therein). As a result of the transaction, our headcount increased by seven full time employees and one part time employee on April 1, 2011.

Mobivity Acquisition

In April 2011, we entered into an acquisition agreement with Mobivity, LLC and Mobile Visions, Inc. to acquire the assets of their Mobivity interactive mobile marketing platform and services business.

The purchase price for the acquisition was 1,000,000 shares of our common stock, \$64,969 in cash paid at closing and a secured subordinated promissory note of Mobivity, Inc. (our wholly owned subsidiary) in the principal amount of \$606,054. The promissory note earned interest at 6.25% per annum; was payable in six quarterly installments of \$105,526.42 (inclusive of interest) starting May 1, 2011; matured on August 1, 2012; was secured by the acquired assets of the Mobivity business; and was subordinated to our obligations under our outstanding 10% Senior Secured Convertible Bridge Notes Due November 3, 2011.

BoomText Acquisition

In August 2011, the Company completed the transactions contemplated under an asset purchase agreement dated June 9, 2011 (the "Agreement") with Digimark, LLC ("Digimark") to acquire substantially all of the assets of its BoomText interactive mobile marketing services business. The effective date of the transaction was August 1, 2011. In accordance with the terms of the Agreement, as amended, the purchase price for the acquisition consisted of the following components:

- (i) 519,540 shares of the Company's common stock issued at closing;
- (ii) \$120,514 in cash paid at closing;
- (iii) a secured subordinated promissory note of Mobivity, Inc. in the principal amount of \$175,000. This note earned interest at 6.25% per annum and was paid in full on May 31, 2012;
- (iv) an unsecured subordinated promissory note in the principal amount of \$194,658 issued by Mobivity, Inc. due and payable on October 1, 2012, of which \$100,000 was payable as of the date of this report. This note does not bear interest; is payable in installments (varying in amount) from August 2011 through October 2012; and was subordinated to our obligations under the outstanding 10% Senior Secured Convertible Bridge Notes due November 3, 2011;
- (v) an earn-out payment (payable 20 months after closing of the transaction) of a number of shares of our common stock equal to (a) 1.5, multiplied by our net revenue from acquired customers and customer prospects for the twelve-month period beginning six months after the closing date, divided by (b) the average of the volume-weighted average trading prices of our common stock for the 25 trading days immediately preceding the earn-out payment (subject to a collar of \$1.49 and \$2.01 per share).

As of December 31, 2012, the dollar value of the earn-out payable is \$2,032,881, which is recorded as a current liability on the accompanying consolidated balance sheet. The estimated number of common shares to be issued to settle the earn-out payable is 1,364,350. The purchase price also included the assumption of an office lease obligation and certain of Digimark's accounts payable.

Bridge Note Financing

In 2012, we issued additional 10% Senior Secured Convertible Bridge Notes in the aggregate of \$3,533,999. (See discussion of Bridge Note Financing in Liquidity and Capital Resources, and Note 6 in Notes to Consolidated Financial Statements).

As of December 31, 2012, the outstanding principal amount of convertible notes payable totaled \$4,342,418, and is due April 15, 2013. The original due date on these convertible notes payable was October 15, 2012, and was extended via amendment to the convertible note agreements.

In consideration of the note holders' agreement to extend the maturity date, the amendment provides that the note holders have the option to convert the principal and interest under the convertible note payable into the securities offered by the Company in a qualifying equity financing at the lower of (a) the same price paid for such securities by other investors investing in the financing or (b) \$0.50 per share (subject to adjustment in the event of a stock split, reclassification or the like). Prior to the amendment, the conversion option under the convertible notes payable entitled the note holders to convert the principal and interest under the convertible notes payable into the securities offered by the Company in a qualifying equity financing at the same price paid for such securities by other investors investing in the financing.

Results of Operations

Year Ended December 31, 2012 Compared to Year Ended December 31, 2011

Revenues

Revenues for the year ended December 31, 2012 were \$4,079,745, an increase of \$1,555,480, or 62%, compared to the year ended December 31, 2011. The increase is primarily attributable to the acquisitions of Mobivity and Txtstation in April 2011 and the acquisition of Boomtext in August 2011, each of which had partial year revenue recorded in 2011. Additionally we experienced 12% organic growth of Boomtext revenues over the annualized 2011 revenue, and a 49% increase in revenues from CommerceTel operations.

Cost of Revenues

Cost of revenues for the year ended December 31, 2012 was \$1,300,325, an increase of \$313,471, or 32% compared to the same period in 2011. This increase is primarily attributable to the acquisitions of Mobivity, Txtstation and Boomtext; and the increased costs for SMS transmission, short code fees, marketing materials, sales commissions, co-location costs, and merchant fees resulting from the three acquisitions which had partial year expense in the prior year. Consolidation of vendors and volume pricing reductions contributed to a lower cost of revenues as a percentage of total revenue, decreasing from 39% in 2011 to 32% in 2012.

Gross Profit

Gross profit for the year ended December 31, 2012 was \$2,779,420, an increase of \$1,242,009, or 81%, compared to the year ended December 31, 2011. Gross profit as a percentage of revenue for the year ended December 31, 2012 increased to 68% compared to 61% for the year ended December 31, 2011. The increase is primarily attributable to the acquisitions of Mobivity, Txtstation, and Boomtext in 2011, and reduced costs related to message transmission through the consolidation of acquired vendors, negotiated volume discounts, and greater leverage of fixed costs.

General and Administrative

General and administrative expenses for the years ended December 31, 2012 and 2011 were \$2,984,531 and \$3,625,799, respectively. Such expenses consist primarily of salaries and personnel related expenses, stock-based compensation expense, consulting costs and other expenses. The decrease of \$641,268 is primarily attributable to the following changes: decrease in stock-based compensation of \$529,865 because fewer awards were granted in 2012; decrease in consulting related expenses of \$238,543 due to reduced dependence on consultants for CFO, accounting services, and M&A activity in 2012; a decrease in legal expenses of \$76,861 due to fewer acquisitions and other transactions requiring legal review in 2012; an increase in bad debt expense of \$93,544 as the accounts receivable base grew in 2012; an increase in investor relations expense of \$62,127 because we engaged additional resources in 2012; an increase in rent of \$43,581 because we had only four months of expense for the Boomtext facility in 2011, and added additional space in 2012.

Sales and Marketing Expense

Sales and marketing expenses for the years ended December 31, 2012 and 2011 were \$1,562,520 and \$583,284, respectively. Such expenses consist primarily of salaries and personnel related expenses, stock-based compensation expense, sales travel, consulting costs and other expenses. The increase of \$979,236 is primarily attributable to the following changes: an increase in payroll related expense of \$737,725 because of the headcount added during our acquisitions in 2011; an increase in stock-based compensation of \$36,145 because of the awards granted to the headcount added during our acquisitions in 2011; an increase in advertising expense of \$57,215 because of increased budget for advertising and marketing activities; and increase in trade show expense of \$16,632 because we attended more tradeshows in 2012.

Engineering, Research, and Development Expense

Engineering, research, and development expenses for the years ended December 31, 2012 and 2011 were \$562,459 and \$347,884, respectively. Such expenses consist primarily of salaries and personnel related expenses, stock-based compensation expense, consulting costs and other expenses. The increase of \$214,575 is primarily attributable to the following changes: increase in engineering consulting expense of \$167,754 because we used more consultants in 2012, primarily due to consultant resources acquired with our 2011 acquisitions; an increase in payroll related expenses of \$48,050 because of the headcount added during our acquisitions in 2011; an increase in software expense of \$15,731 because of increased use of outsourced software resources; and a decrease in stock-based compensation of \$27,657 because options for a majority of these employees became fully vested during the year ended December 31, 2012.

Depreciation and Amortization Expense

Depreciation and amortization expense for the year ended December 31, 2012 and 2011 were \$549,151 and \$751,072, respectively. Such expenses consist of depreciation on our equipment and amortization of our intangible assets. The decrease of \$201,921 is primarily attributable to lower amortizable base of our intangible assets in 2012 after the impairment write-offs that we recorded in 2011 that are discussed below.

Goodwill Impairment and Intangible Asset Impairment

During the years ended December 31, 2012 and 2011, we recorded goodwill impairment charges of \$742,446 and \$10,435,170, respectively, related to our three acquisitions in 2011. During the years ended December 31, 2012 and 2011, we also recorded intangible asset impairment charges of \$145,396 and \$1,325,134, respectively, related to the same three acquisitions. The impairment charges were based on our valuation of these assets at December 31, 2012 and 2011.

Loss from Operations

Our loss from operations for the year ended December 31, 2012 was \$3,767,083, a decrease of \$11,763,849, or 76%, compared to the year ended December 31, 2011. The loss from operations for the years ended December 31, 2012 and 2011 include the non-cash impairment charges discussed above. Without the effect of the impairment discussed above the loss from operations would have been \$2,879,241 and \$3,770,628 respectively.

Interest Expense

Interest expense for the years ended December 31, 2012 and 2011 was \$4,559,564 and \$544,215, respectively. Interest expense consists of stated or implied interest expense on our notes payable, amortization of note discounts, and amortization of deferred financing costs.

As discussed in Note 6 in Notes to Consolidated Financial Statements, we extended our bridge notes several times during the year ended December 31, 2012. At each extension date, we fully amortized the applicable outstanding discounts, and recorded additional discounts as required by the applicable accounting literature. In addition, we issued new bridge notes for cash, resulting in the recording of additional discounts and deferred financing charges. As a result, we recorded interest expense related to amortization of the note discounts on the bridge notes of \$3,927,425 during the year ended December 31, 2012 versus amortization of note discounts on the bridge notes of \$358,254 during the year ended December 31, 2011. During the years ended December 31, 2012 and 2011, we also recorded interest expense related to amortization of note discounts on other notes of \$7,683 and \$12,556, respectively.

Amortization of deferred financing costs for the years ended December 31, 2012 and 2011 was \$263,255 and \$39,958. We capitalized costs associated with the note extensions and our new financing, and amortized these costs over the term of the related notes, resulting in higher amortization during the year ended December 31, 2012.

Stated interest for the years ended December 31, 2012 and 2011 was \$361,201 and \$133,447, respectively. The principal balance of our outstanding notes payable was higher in 2012 than in 2011, resulting in higher stated interest expense for the year ended December 31, 2012.

Change in Fair Market Value of Derivative Liabilities

The change in fair market value for derivative liabilities for the year ended December 31, 2012 was a gain of \$359,530 compared to the year ended December 31, 2011 which was a loss of \$1,234,145. The value of the derivative liabilities at any given date is based on the value of our common stock. In periods when our stock price rises, we expect to record a loss in the change in fair market value of the derivative liabilities. The increase in the value of our recorded derivative liabilities of \$1,593,675 is primarily attributable to the value of our common stock being lower at December 31, 2012 than it was at previous reporting dates.

Gain on Adjustment in Contingent Consideration

The gain on adjustment in contingent consideration for the years ended December 31, 2012 and 2011 was \$625,357 and \$999,347, respectively. These gains represent a reduction in the estimated earn-out payable on the BoomText acquisition at each year end.

Net Loss

The net losses for the years ended December 31, 2012 and December 31, 2011 were \$7,338,927 and \$16,312,989, respectively. Factors affecting the change in net losses are discussed above, the most significant of which is the impairment charges recorded for goodwill and intangible assets.

Liquidity and Capital Resources

As of December 31, 2012, we had current assets of \$445,043, including \$363 in cash, and current liabilities of \$9,740,026, resulting in negative working capital of \$9,294,983.

Our current assets have decreased and our negative working capital position has increased as a result of continuing losses from operations. As of the date of this report, and assuming revenue projections for the 4th quarter 2012 and 1st quarter of 2013 are attained, we believe we have working capital on hand and projected cash equivalents sufficient to fund our current level of operations through June 2013.

We believe that we require approximately \$500,000 of additional working capital in order to fund our current level of operations over the next 12 months. This estimate assumes that we can convince the holders of our investment notes, in the aggregate principal amount of \$4,342,418, to convert the principal and accrued interest into shares of our equity securities. If we are unsuccessful in doing so, our working capital requirements will increase commensurately. While our priority is on generating additional working capital from operations through the sale of our services, we are also seeking to raise additional working capital through various financing sources, including the sale of our equity and debt securities and, subject to our commencement of profitable operations, the procurement of commercial debt financing. However, there can be no guarantees that such funds will be available on commercially reasonable terms, if at all. If such financing is not available on satisfactory terms, we will be unable to continue our business as desired and operating results will be adversely affected. In addition, any financing arrangement may have potentially adverse effects on us or our stockholders. Debt financing (if available and undertaken) will increase expenses, must be repaid regardless of operating results and may involve restrictions limiting our operating flexibility. If we issue equity securities to raise additional funds, the percentage ownership of our existing stockholders will be reduced and the new equity securities may have rights, preferences or privileges senior to those of the holders of our common stock.

The report of our independent registered public accounting firm for the fiscal year ended December 31, 2012, included herein, states that due to our recurring operating losses from operations, negative cash flows from operations and dependence on additional financing to fund operations, there is substantial doubt about our ability to continue as a going concern.

In addition, all of our assets are currently subject to a first priority lien in favor of the holders of our outstanding convertible notes payable in the current aggregate principal amount of \$4,342,418. The notes are due on April 15, 2013, if we are unable to repay or refinance our obligations under those notes by April 15, 2013, the holders of the notes will have the right to foreclose on their security interests and seize our assets. To avoid such an event, we may be forced to seek bankruptcy protection, however a bankruptcy filing would, in all likelihood, materially adversely affect our ability to continue our current level of operations. In the event we are not able to refinance or repay the notes, but negotiate for a further extension of the maturity date of the notes, we may be required to pay significant extension fees in cash or shares of our equity securities or otherwise make other forms of concessions that may adversely impact the interests of our common stockholders.

Cash Flows from Operating Activities

Our operating activities resulted in net cash used by operations of \$2,218,183 for the year ended December 31, 2012 compared to net cash used by operations of \$890,685 for the year ended December 31, 2011.

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The net cash used in operating activities for the year ended December 31, 2012 reflects a net loss of \$7,338,927 offset by bad debt expense of \$115,059, common stock issued for services of \$270,000, stock-based compensation of \$391,410, stock issued for late payment of \$160,468, depreciation and amortization expense of \$549,151, gain on adjustment in contingent consideration of \$625,357, change (gain) in fair market value of derivative liabilities of \$359,530, amortization of deferred financing costs of \$263,255, amortization of note discounts of \$3,935,108, goodwill impairment of \$742,446 and intangible asset impairment \$145,396. For the year ended December 31, 2012, the net benefit of the non-cash items totaled \$5,587,570.

Changes in operating assets and liabilities for the year ended December 31, 2012 included a decrease in accounts receivable of \$285,884, a decrease in accounts payable of \$327,828, an increase in accrued interest of \$335,035, an increase in accrued and deferred personnel compensation of \$61,843, a decrease in deferred revenue – related party of \$164,738, an increase in deferred revenue and customer deposits of \$55,206 a decrease in other liabilities of \$120,929, and other minor factors.

The net cash used in operating activities for the year ended December 31, 2011 reflects a net loss of \$16,312,989 offset by bad debt expense of \$21,514, common stock for services of \$25,000, stock-based compensation of \$1,380,256, depreciation and amortization of \$751,072, gain on adjustment of contingent consideration of \$999,347, change (loss) in fair market value of derivative liabilities of \$1,234,145, amortization of deferred financing costs of \$39,958, amortization of note discounts of \$370,810, goodwill impairment of \$10,435,170 and intangible asset impairment of \$1,325,134. For the year ended December 31, 2011, the net benefit of the non-cash items totaled \$14,583,712.

Changes in operating assets and liabilities for the year ended December 31, 2011 included a decrease in accounts receivable of \$216,145, an increase in accounts payable of \$576,305, an increase in accrued interest of \$112,796, an increase in accrued and deferred personnel compensation of \$118,050, an increase in deferred revenue – related party of \$72,887, an increase in other liabilities of \$151,168, and other minor factors.

Cash Flows from Investing Activities

Net cash used in investing activities for the years ended December 31, 2012 and 2011 was \$11,112 and \$299,022, respectively.

During the year ended December 31, 2012, we purchased equipment totaling \$11,112.

During the year ended December 31, 2011, we purchased equipment totaling \$12,189, we acquired intangible assets (patents and trademarks) totaling \$77,000, and we paid \$209,833 in cash for the three acquisitions.

Cash Flows from Financing Activities

Net cash provided by financing activities for the years ended December 31, 2012 and 2011 was \$2,229,262 and \$816,664, respectively.

During the year ended December 31, 2012, we received proceeds of \$3,396,350 from the issuance of 10% Senior Secured Convertible Bridge Notes, offset by payments of \$247,880 in deferred financing costs, for net proceeds of \$3,148,470.

During the year ended December 31, 2012, we paid \$254,081 against nine 10% Senior Secured Bridge Notes, we paid \$577,627 against the principal balance of the notes issued in the Mobivity and Boomtext acquisitions, and we paid \$87,500 against the cash payment obligation resulting from the Txtstation acquisition.

During the year ended December 31, 2011, we received proceeds of \$1,033,003 from the sale of 688,669 shares of common stock and the issuance of warrants to purchase 688,669 shares at \$2.00 per share, offset by payments of \$21,800 in equity offering costs, and we received \$272,500 from the issuance of our 10% Senior Secured Convertible Bridge Notes.

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During the year ended December 31, 2011, we paid \$304,539 against the principal balance of the note issued in the Mobivity acquisition as well as \$162,500 against the cash payment obligation from the Txtstation acquisition

Non Cash Financing Activities

During the year ended December 31, 2012, non-cash investing and financing activities totaling \$8,982,282 consisted of \$5,352,404 of discounts recorded on our notes payable, \$69,332 in adjustments to our derivative liabilities due to debt repayment, \$3,421,579 in adjustments to our derivative liabilities due to debt conversion, \$1,318 in adjustments to our derivative liabilities due to warrant expiration, and \$137,649 for conversion of accrued interest into our convertible notes payable.

During the year ended December 31, 2011, non-cash investing and financing activities totaling \$11,891,497 consisting of \$50,000 in shares of common stock issued to acquire a patent, \$149,196 of discounts recorded on our notes payable, \$143,961 in adjustments to our derivative liabilities due to debt conversion, \$230,271 for conversion of notes payable and interest into shares of common stock, and \$11,318,069 for the value of shares of common stock issued in our acquisitions.

Bridge Note Financing

We have completed the following bridge note financing transactions during the periods indicated:

- From November 2010 through March 2011, we issued to a number of accredited investors a series of our 10% Senior Secured Convertible Bridge Note (the "Bridge Notes") in the aggregate principal amount of \$1,010,000. The Bridge Notes accrue interest at the rate of 10% per annum.
- In November 2011, we entered into agreements with all holders of the then outstanding Bridge Notes. Under the terms of the agreements, holders of Bridge Notes totaling \$800,000 agreed to extend the maturity due date of the Bridge Notes to February 2, 2012. For these note holders, no change occurred in their rights. Holders of the balance of the Bridge Notes totaling \$210,000 agreed to convert the entire principal amount plus all accrued and unpaid interest of \$20,271 into units (each, a "Unit"), each of which consists of one share of our common stock at \$1.50 a share and a four-year warrant to purchase one share of common stock at \$2.00 per share.
- Also in November 2011, we issued additional Bridge Notes in the aggregate principal amount of \$262,500. These Bridge Notes were due February 2, 2012 and contained the same rights and privileges as the previously issued Bridge Notes.
- In January, 2012, we issued additional Bridge Notes in the principal amount of \$520,000. All note holders with maturity dates of February 2, 2012 extended the maturity through May 2, 2012. As consideration to the note holders for the extension of the maturity date, we provided allonges which consisted of the accrued interest on each convertible note payable as of January 31, 2012. The allonges are convertible into shares of common stock at the latest financing price.
- In March and April 2012, we issued additional Bridge Notes in the aggregate principal amount of \$220,100 due May 2, 2012. In March 2012, one note holder was repaid a partial principal balance of \$65,000.
- In May and June 2012, we issued to a number of accredited investors our 10% Senior Secured Convertible Promissory Notes in the principal amount of \$4,347,419 (the "new Bridge Notes"), consisting of (i) \$2,656,250 of new funds and (ii) \$1,691,168 principal amount plus accrued but unpaid interest outstanding under previously issued Bridge Notes that were cancelled and converted into the new Bridge Notes. The new Bridge Notes accrue interest at the rate of 10% per annum. The entire principal amount under the new Bridge Notes plus all accrued and unpaid interest is due on the earlier of (i) the date we complete a financing transaction for the offer and sale of shares of common stock (including securities convertible into or exercisable for its common stock), in an aggregate amount of no less than 125% of the principal amounts evidenced by the new Bridge Notes, and (ii) October 15, 2012.
- We used \$206,322 from the proceeds of the sale of the new Bridge Notes to pay off existing balances under the Bridge Notes that were not cancelled and converted into the new Bridge Notes.

- In October 2012 and continuing thereafter, the Company entered into amendments with the holders the new Bridge Notes. Under the terms of the amendments, the holders of new Bridge Notes in the aggregate principal amount of \$4,342,419 agreed to extend the maturity date of the new Bridge Notes to April 15, 2013. In consideration of the new Bridge Note holders' agreement to extend the maturity date, the amendment provides that the holder shall have the option to convert the principal and interest under the new Bridge Note into the securities offered by the Company in a qualifying equity financing at the lower of (a) the same price paid for such securities by other investors investing in the financing or (b) \$0.50 per share (subject to adjustment in the event of a stock split, reclassification or the like). Prior to the amendment, the conversion option under the new Bridge Note entitled the holder to convert the principal and interest under the new Bridge Note into the securities offered by the Company in a qualifying equity financing at the same price paid for such securities by other investors investing in the financing. The conversion price of \$0.50 in (b) above triggered the price protection guarantee contained in the warrants issued in the Company's 2011 private placement, and the exercise price on the warrants changed from \$2.00 per share to \$0.50 per share.
- Our obligations under the new Bridge Notes are secured by all of our assets, including all shares of our wholly owned subsidiary.

2011 Private Placement

We raised gross proceeds of \$1,033,003 during a private placement from March 2011 to November 2011. The private placement structure consists of a series of identical subscription agreements offering subscribers an opportunity to invest in units comprised of shares of our common stock at a price of \$1.50 per share and an equivalent number of warrants at an exercise price of \$2.00. Both the shares and the warrants are price protected by us. The price protection obligates us to issue to the investors an additional number of shares in the event that common shares are issued at a price below \$1.50 before August 31, 2012. In October 2012, the exercise price of the warrants was reduced from \$2.00 to \$0.50 as a result of the price protection guarantee contained in the warrant agreement.

Critical Accounting Policies and Estimates

We prepare our consolidated financial statements in accordance with accounting principles generally accepted in the United States of America. The preparation of these financial statements requires the use of estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements and the reported amount of revenues and expenses during the reporting period. Our management periodically evaluates the estimates and judgments made, including those related to share based compensation and valuation of the derivative liability. Management bases its estimates and judgments on historical experience and on various factors that are believed to be reasonable under the circumstances. Actual results may differ from these estimates.

The following critical accounting policies affect the more significant judgments and estimates used in the preparation of the Company's consolidated financial statements.

Revenue recognition

Our "C4" Mobile Marketing and Customer Relationship Management (CRM) platform is a hosted solution, as is the newly acquired Txtstation Control Center platform. We generate revenue from licensing our software to clients in our software as a service (SaaS) model, per-message and per-minute transactional fees, and customized professional services. We recognize license fees over the period of the contract, service fees as the services are performed, and per-message or per-minute transaction revenue when the transaction takes place. We recognize revenue at the time that the services are rendered, the selling price is fixed, and collection is reasonably assured, provided no significant obligations remain. We consider authoritative guidance on multiple deliverables in determining whether each deliverable represents a separate unit of accounting. As for the newly acquired Mobivity and Boomtext platforms, which are both hosted solutions, revenue is principally derived from subscription fees from customers. The subscription fee is billed on a month to month basis with no contractual term and is collected by credit card for Mobivity and collected by cash and credit card for Boomtext. Revenue is recognized at the time that the services are rendered and the selling price is fixed with a set range of plans. Cash received in advance of the performance of services is recorded as deferred revenue.

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As of December 31, 2012 and 2011, deferred revenues from related parties totaled \$35,262 and \$200,000 respectively. As of December 31, 2012 and 2011, deferred revenues from third parties totaled \$164,631 and \$109,063, respectively.

During the year ended December 31, 2012, one customer accounted for 14.4% of our revenues. No single customer accounted for more than 10% of our revenues during the year ended December 31, 2011.

Share-based compensation expense

Share-based compensation cost is measured at the date of grant, based on the calculated fair value of the stock-based award, and is recognized as expense over the employee's requisite service period (generally the vesting period of the award). We estimate the fair value of employee stock options granted using the Black-Scholes Option Pricing Model. Key assumptions used to estimate the fair value of stock options include the exercise price of the award, the fair value of the our common stock on the date of grant, the expected option term, the risk free interest rate at the date of grant, the expected volatility and the expected annual dividend yield on our Company's common stock. We use comparable public company data among other information to estimate the expected price volatility and the expected forfeiture rate.

Derivative Financial Instruments

We do not use derivative instruments to hedge exposures to cash flow, market or foreign currency risks. We review the terms of convertible debt and equity instruments we issue to determine whether there are embedded derivative instruments, including the embedded conversion option, that are required to be bifurcated and accounted for separately as a derivative financial instrument. In circumstances where the convertible instrument contains more than one embedded derivative instrument, including the conversion option, that is required to be bifurcated, the bifurcated derivative instruments are accounted for as a single, compound derivative instrument. Also, in connection with the sale of convertible debt and equity instruments, we may issue freestanding warrants that may, depending on their terms, be accounted for as derivative instrument liabilities, rather than as equity.

Bifurcated embedded derivatives are initially recorded at fair value and are then revalued at each reporting date with changes in the fair value reported as non-operating income or expense. When the convertible debt or equity instruments contain embedded derivative instruments that are to be bifurcated and accounted for as liabilities, the total proceeds allocated to the convertible host instruments are first allocated to the fair value of all the bifurcated derivative instruments. The remaining proceeds, if any, are then allocated to the convertible instruments themselves, usually resulting in those instruments being recorded at a discount from their face value. The discount from the face value of the convertible debt, together with the stated interest on the instrument, is amortized over the life of the instrument through periodic charges to income, using the effective interest method.

The fair value of the derivatives is estimated using a Monte Carlo simulation model. The model utilizes a series of inputs and assumptions to arrive at a fair value at the date of inception and each reporting period. Some of the key assumptions include the likelihood of future financing, stock price volatility, and discount rates.

Off-Balance Sheet Arrangements

We have no off-balance sheet arrangements.

Item 8. **Financial Statements**

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Board of Directors
Mobivity Holdings Corp.
Chandler, AZ 85225

We have audited the accompanying consolidated balance sheets of Mobivity Holdings Corp. (the "Company") as of December 31, 2012 and 2011 and the related statements of operations, stockholders' equity (deficit) and cash flows for the twelve month periods then ended. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. Our audits included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial positions of the Company as of December 31, 2012 and 2011 and the results of its operations and cash flows for the periods described above in conformity with accounting principles generally accepted in the United States of America.

The accompanying financial statements have been prepared assuming that the Company will continue as a going concern. As discussed in Note 2 to the financial statements, the Company has incurred recurring operating losses and negative cash flows from operations and is dependent on additional financing to fund operations. These conditions raise substantial doubt about the Company's ability to continue as a going concern. Management's plans in regard to these matters are described in Note 2 to the financial statements. The financial statements do not include any adjustments that might result from the outcome of this uncertainty.

/s/ M&K CPAS, PLLC
www.mkacpas.com
Houston, Texas
March 21, 2013

**Mobivity Holdings Corp.
Consolidated Balance Sheets**

| ASSETS | Years ended December 31, | |
|--|--------------------------|---------------------|
| | 2012 | 2011 |
| Current assets | | |
| Cash | \$ 363 | \$ 396 |
| Accounts receivable, net of allowance for doubtful accounts of \$44,700 and \$18,050, respectively | 414,671 | 243,846 |
| Other current assets | 30,009 | 15,924 |
| Total current assets | 445,043 | 260,166 |
| Equipment, net | 14,111 | 25,316 |
| Goodwill | 2,259,624 | 3,002,070 |
| Intangible assets, net | 444,112 | 1,116,506 |
| Other assets | 187,117 | 197,046 |
| TOTAL ASSETS | \$ 3,350,007 | \$ 4,601,104 |
| LIABILITIES AND STOCKHOLDERS' EQUITY (DEFICIT) | | |
| Current liabilities | | |
| Accounts payable | \$ 514,949 | \$ 842,777 |
| Accrued interest | 321,368 | 130,426 |
| Accrued and deferred personnel compensation | 299,534 | 237,691 |
| Deferred revenue - related party | 35,262 | 200,000 |
| Deferred revenue and customer deposits | 181,731 | 126,525 |
| Convertible notes payable, net of discount | 2,857,669 | 1,002,730 |
| Notes payable, net of discount | 171,984 | 736,270 |
| Cash payment obligation, net of discount | - | 86,714 |
| Derivative liabilities | 3,074,504 | 1,573,859 |
| Other current liabilities | 250,144 | 245,227 |
| Earn-out payable | 2,032,881 | - |
| Total current liabilities | 9,740,026 | 5,182,219 |
| Non-current liabilities | | |
| Long term accounts payable | - | 125,846 |
| Earn-out payable | - | 2,658,238 |
| Total non-current liabilities | - | 2,784,084 |
| Total liabilities | 9,740,026 | 7,966,303 |
| Commitments and Contingencies (See Note 10) | | |
| Stockholders' equity (deficit) | | |
| Common stock, \$0.001 par value; 150,000,000 shares authorized; 23,218,117 and 22,754,308 shares issued and outstanding as of December 31, 2012 and 2011, respectively | 23,218 | 22,754 |
| Additional paid-in capital | 25,412,932 | 21,099,289 |
| Accumulated deficit | (31,826,169) | (24,487,242) |
| Total stockholders' equity (deficit) | (6,390,019) | (3,365,199) |
| TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY (DEFICIT) | \$ 3,350,007 | \$ 4,601,104 |

See accompanying notes to consolidated financial statements.

Mobivity Holdings Corp.
Consolidated Statements of Operations

| | Years ended December 31, | |
|--|--------------------------|------------------------|
| | <u>2012</u> | <u>2011</u> |
| Revenues | | |
| Revenues | \$ 4,079,745 | \$ 2,524,265 |
| Cost of revenues | 1,300,325 | 986,854 |
| Gross margin | 2,779,420 | 1,537,411 |
| Operating expenses | | |
| General and administrative | 2,984,531 | 3,625,799 |
| Sales and marketing | 1,562,520 | 583,284 |
| Engineering, research, and development | 562,459 | 347,884 |
| Depreciation and amortization | 549,151 | 751,072 |
| Goodwill impairment | 742,446 | 10,435,170 |
| Intangible asset impairment | 145,396 | 1,325,134 |
| Total operating expenses | 6,546,503 | 17,068,343 |
| Loss from operations | (3,767,083) | (15,530,932) |
| Other income/(expense) | | |
| Interest income | 2,833 | 176 |
| Interest expense, net | (4,559,564) | (544,215) |
| Change in fair value of derivative liabilities | 359,530 | (1,234,145) |
| Gain on adjustment in contingent consideration | 625,357 | 999,347 |
| Total other income/(expense) | (3,571,844) | (778,837) |
| Loss before income taxes | (7,338,927) | (16,309,769) |
| Income tax expense | - | (3,220) |
| Net loss | \$ (7,338,927) | \$ (16,312,989) |
| Net loss per share - basic and diluted | \$ (0.32) | \$ (0.78) |
| Weighted average number of shares during the period - basic and diluted | 23,069,669 | 20,910,334 |

See accompanying notes to consolidated financial statements.

Mobivity Holdings Corp.
Consolidated Statements of Cash Flows

| | Years ended December 31, | |
|--|---------------------------------|------------------|
| | 2012 | 2011 |
| OPERATING ACTIVITIES | | |
| Net loss | \$ (7,338,927) | \$ (16,312,989) |
| Adjustments to reconcile net loss to net cash used in operating activities: | | |
| Bad debt expense | 115,059 | 21,514 |
| Common stock issued for services | 270,000 | 25,000 |
| Stock-based compensation | 391,410 | 1,380,256 |
| Stock issued for late payment | 160,468 | - |
| Depreciation and amortization expense | 549,151 | 751,072 |
| Gain on adjustment in contingent consideration | (625,357) | (999,347) |
| Change in fair market value of derivative liabilities | (359,530) | 1,234,145 |
| Amortization of deferred financing costs | 263,255 | 39,958 |
| Amortization of note discounts | 3,935,108 | 370,810 |
| Goodwill impairment | 742,446 | 10,435,170 |
| Intangible asset impairment | 145,396 | 1,325,134 |
| Loss on sale of assets | 164 | - |
| Increase (decrease) in cash resulting from changes in: | | |
| Accounts receivable | (285,884) | (216,145) |
| Other current assets | (29,460) | 25,331 |
| Other assets | 9,929 | (1,800) |
| Accounts payable | (327,828) | 576,305 |
| Accrued interest | 335,035 | 112,796 |
| Accrued and deferred personnel compensation | 61,843 | 118,050 |
| Deferred revenue - related party | (164,738) | - |
| Deferred revenue and customer deposits | 55,206 | 72,887 |
| Other liabilities | (120,929) | 151,168 |
| Net cash used in operating activities | (2,218,183) | (890,685) |
| INVESTING ACTIVITIES | | |
| Purchases of equipment | (11,112) | (12,189) |
| Acquisition of intangible assets | - | (77,000) |
| Cash paid for acquisitions | - | (209,833) |
| Net cash used in investing activities | (11,112) | (299,022) |
| FINANCING ACTIVITIES | | |
| Proceeds from issuance of notes payable, net of finance offering costs | 3,148,470 | 272,500 |
| Payments on notes payable | (831,708) | (304,539) |
| Payments on cash payment obligation | (87,500) | (162,500) |
| Proceeds from issuance of common stock and warrants, net of equity offering costs | - | 1,011,203 |
| Net cash provided by financing activities | 2,229,262 | 816,664 |
| Net change in cash | (33) | (373,043) |
| Cash at beginning of period | 396 | 373,439 |
| Cash at end of period | \$ 363 | \$ 396 |
| Supplemental disclosures: | | |
| Cash paid during period for : | | |
| Interest | \$ 33,385 | \$ 20,650 |
| Income taxes | \$ - | \$ 3,220 |
| Non-cash investing and financing activities: | | |
| Common stock issued for patents and trademarks | \$ - | \$ 50,000 |
| Debt discount | \$ 5,352,404 | \$ 149,196 |
| Adjustment to derivative liability due to debt repayment | \$ 69,332 | \$ - |
| Adjustment to derivative liability due to debt conversion | \$ 3,421,579 | \$ 143,961 |
| Adjustment to derivative liability due to warrant cancellation | \$ 1,318 | \$ - |
| Conversion of notes payable and interest into common stock | \$ - | \$ 230,271 |
| Conversion of accrued interest into convertible notes payable | \$ 137,649 | \$ - |
| Share value issued in acquisitions | \$ - | \$ 11,318,069 |

See accompanying notes to consolidated financial statements.

Mobivity Holdings Corp.
Consolidated Statements of Stockholders' Equity (Deficit)

| | Common Stock | | Additional Paid-in Capital | Accumulated Deficit | Total Stockholders' Equity (Deficit) |
|--|-------------------|------------------|----------------------------------|------------------------|---|
| | Shares | Dollars | | | |
| Balance, December 31, 2010 | 17,700,000 | \$ 17,700 | \$ 6,945,584 | \$ (8,174,253) | \$ (1,210,969) |
| Issuance of common stock and warrants for cash | 688,669 | 689 | 1,032,314 | - | 1,033,003 |
| Issuance of common stock for acquisitions | 3,944,540 | 3,945 | 11,314,124 | - | 11,318,069 |
| Issuance of common stock for patent rights | 14,286 | 14 | 49,986 | - | 50,000 |
| Issuance of common stock for services | 253,298 | 253 | 428,747 | - | 429,000 |
| Notes payable converted into common stock | 153,515 | 153 | 230,118 | - | 230,271 |
| Adjustment to derivative liability due to debt conversion | - | - | 143,961 | - | 143,961 |
| Stock-based compensation | - | - | 976,255 | - | 976,255 |
| Equity offering costs | - | - | (21,800) | - | (21,800) |
| Net loss | - | - | - | (16,312,989) | (16,312,989) |
| Balance, December 31, 2011 | 22,754,308 | 22,754 | 21,099,289 | (24,487,242) | (3,365,199) |
| Issuance of common stock for services | 225,000 | 225 | 269,775 | - | 270,000 |
| Issuance of common stock for late payment penalty | 235,441 | 235 | 160,233 | - | 160,468 |
| Adjustment to derivative liability due to note repayment | 3,368 | 4 | 1,370 | - | 1,374 |
| Adjustment of derivative liability due to note repayment | - | - | 67,958 | - | 67,958 |
| Adjustment to derivative liability due to note conversion | - | - | 3,421,579 | - | 3,421,579 |
| Adjustment to derivative liability due to warrant cancellation | - | - | 1,318 | - | 1,318 |
| Stock based compensation | - | - | 391,410 | - | 391,410 |
| Net loss | - | - | - | (7,338,927) | (7,338,927) |
| Balance, December 31, 2012 | 23,218,117 | \$ 23,218 | \$ 25,412,932 | \$ (31,826,169) | \$ (6,390,019) |

See accompanying notes to consolidated financial statements.

Mobivity Holdings Corp.
Notes to Consolidated Financial Statements

1. Reverse Merger Transaction and Accounting

Reverse Merger Transaction

Mobivity Holdings Corp. (the “Company”) was incorporated as Ares Ventures Corporation in Nevada in 2008. In November 2010, the Company acquired CommerceTel, Inc., which was wholly-owned by CommerceTel Canada Corporation, in a reverse merger, or the “Merger”. Pursuant to the Merger, all of the issued and outstanding shares of CommerceTel, Inc. common stock were converted, at an exchange ratio of 0.7268-for-1, into an aggregate of 10,000,000 shares of the Company’s common stock, and CommerceTel, Inc. became a wholly owned subsidiary of the Company. In connection with the Merger, the Company changed its corporate name to CommerceTel Corporation in October 2010. The accompanying condensed consolidated financial statements, common share and weighted average common share basic and diluted information has been retroactively adjusted to reflect the exchange ratio in the Merger.

In connection with the Company’s acquisition of assets from Mobivity, LLC (See Note 3 Acquisitions below), the Company changed its corporate name to Mobivity Holdings Corp. and its operating company from CommerceTel, Inc. to Mobivity, Inc., in August 2012.

Reverse Merger Accounting

Immediately following the consummation of the Merger: (i) the former security holders of Mobivity, Inc. common stock had an approximate 56% voting interest in the Company and the Company stockholders retained an approximate 44% voting interest; (ii) the former executive management team of Mobivity, Inc. remained as the only continuing executive management team for the Company; and (iii) the Company’s ongoing operations consist solely of the ongoing operations of Mobivity, Inc.

Based primarily on these factors, the Merger was accounted for as a reverse merger and a recapitalization in accordance with generally accepted accounting principles in the United States of America, or “GAAP”. As a result, these condensed financial statements reflect: (i) the historical results of Mobivity, Inc. prior to the Merger; (ii) the combined results of the Company following the Merger; and (iii) the acquired assets and liabilities at their historical cost. In connection with the Merger, the Company received net assets of \$16,496.

In December 2010, the Board of Directors of the Company resolved to change the Company’s fiscal year end from September 30 to December 31, effective immediately, to coincide with the fiscal year end of its wholly owned subsidiary Mobivity, Inc.

2. Nature of Operations and Summary of Significant Accounting Policies

Nature of Operations and Basis of Presentation

The Company is a provider of mobile marketing technology that enables major brands and enterprises to engage consumers via their mobile phones and other smart devices. Interactive electronic communications with consumers is a complex process involving communication networks and software. The Company removes this complexity through its suite of services and technologies thereby enabling brands, marketers, and content owners to communicate with their customers and consumers in general.

Principles of Accounting and Consolidation

These consolidated financial statements have been prepared in accordance with GAAP. The consolidated financial statements include the accounts of the Company and its wholly-owned subsidiary. All significant intercompany balances and transactions have been eliminated.

Going Concern

The Company's financial statements have been prepared assuming that it will continue as a going concern. Such assumption contemplates the realization of assets and satisfaction of liabilities in the normal course of business. However, we have incurred continued losses, have a net working capital deficiency, and have an accumulated deficit of approximately \$31.8 million as of December 31, 2012. These factors among others create a substantial doubt about our ability to continue as a going concern. The Company is dependent upon sufficient future revenues, additional sales of our securities or obtaining debt financing in order to meet its operating cash requirements. Barring the Company's generation of revenues in excess of its costs and expenses or its obtaining additional funds from equity or debt financing, or receipt of significant licensing prepayments, the Company will not have sufficient cash to continue to fund the operations of the Company through June 30, 2013. These consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty.

In response to our Company's cash needs, we raised additional bridge financing totaling \$3,396,350 between January and September, 2012. Longer term, we anticipate that we will raise additional equity financing through the sale of shares of the Company's common stock in order to finance our future investing and operating cash flow needs. However, there can be no assurance that such financings will be available on acceptable terms, or at all.

We anticipate, based on currently proposed plans and assumptions relating to our ability to market and sell our products, that our cash on hand will not satisfy, our operational and capital requirements for the next six months. Further, the operation of our business and our efforts to grow our business further both through acquisitions and organically will require significant cash outlays and commitments. The timing and amount of our cash needs may vary significantly depending on numerous factors. Our existing working capital is not sufficient to meet our cash requirements and we will need to seek additional capital, potentially through debt, or equity financings, to fund our growth.

Although we are actively pursuing financing opportunities, we may not be able to raise cash on terms acceptable to us or at all. There can be no assurance that we will be successful in obtaining additional funding. Financings, if available, may be on terms that are dilutive to our shareholders, and the prices at which new investors would be willing to purchase our securities may be lower than the current price of our ordinary shares. The holders of new securities may also receive rights, preferences or privileges that are senior to those of existing holders of our ordinary shares. If additional financing is not available or is not available on acceptable terms, we will have to curtail our operations in the short term.

Use of Estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of expenses during the reporting period. Significant estimates used are those related to stock-based compensation, the valuation of the derivative liabilities, asset impairments, the valuation and useful lives of depreciable tangible and certain intangible assets, the fair value of common stock used in acquisitions of businesses, the fair value of assets and liabilities acquired in acquisitions of businesses, and the valuation allowance of deferred tax assets. Management believes that these estimates are reasonable; however, actual results may differ from these estimates.

Purchase Accounting

The Company accounts for acquisitions pursuant to Accounting Standards Codification ("ASC") No. 805, *Business Combinations*. The Company records all acquired tangible and intangible assets and all assumed liabilities based upon their estimated fair values.

Cash

The Company minimizes its credit risk associated with cash by periodically evaluating the credit quality of its primary financial institution. The balance at times may exceed federally insured limits. The Company has not experienced any losses on such accounts. The Company's cash balances at December 31, 2012 and 2011 were \$363 and \$369, respectively.

Fair Value of Financial Instruments

On January 1, 2011, the Company adopted guidance which defines fair value, establishes a framework for using fair value to measure financial assets and liabilities on a recurring basis, and expands disclosures about fair value measurements. Beginning on January 1, 2011, the Company also applied the guidance to non-financial assets and liabilities measured at fair value on a non-recurring basis, which includes goodwill and intangible assets. The guidance establishes a hierarchy for inputs used in measuring fair value that maximizes the use of observable inputs and minimizes the use of unobservable inputs by requiring that the most observable inputs be used when available. Observable inputs are inputs that market participants would use in pricing the asset or liability developed based on market data obtained from sources independent of the Company. Unobservable inputs are inputs that reflect the Company's assumptions of what market participants would use in pricing the asset or liability developed based on the best information available in the circumstances. The hierarchy is broken down into three levels based on the reliability of the inputs as follows:

Level 1 - Valuation is based upon unadjusted quoted market prices for identical assets or liabilities in active markets that the Company has the ability to access.

Level 2 -Valuation is based upon quoted prices for similar assets or liabilities in active markets; quoted prices for identical or similar assets or liabilities in inactive markets; or valuations based on models where the significant inputs are observable in the market.

Level 3 - Valuation is based on models where significant inputs are not observable. The unobservable inputs reflect the Company's own assumptions about the inputs that market participants would use.

The following table presents assets and liabilities that are measured and recognized at fair value as of December 31, 2012 on a recurring and non-recurring basis:

| Description | Level 1 | Level 2 | Level 3 | Gains (Losses) |
|----------------------------------|---------|---------|--------------|-------------------|
| Goodwill (non-recurring) | \$ - | \$ - | \$ 2,259,624 | \$ (742,446) |
| Intangibles, net (non-recurring) | \$ - | \$ - | \$ 444,112 | \$ (145,396) |
| Derivatives (recurring) | \$ - | \$ - | \$ 3,074,504 | \$ 359,530 |

The following table presents assets and liabilities that are measured and recognized at fair value as of December 31, 2011 on a recurring and non-recurring basis:

| Description | Level 1 | Level 2 | Level 3 | Gains (Losses) |
|----------------------------------|---------|---------|--------------|-------------------|
| Goodwill (non-recurring) | \$ - | \$ - | \$ 3,002,070 | \$ (10,435,170) |
| Intangibles, net (non-recurring) | \$ - | \$ - | \$ 1,116,506 | \$ (1,325,134) |
| Derivatives (recurring) | \$ - | \$ - | \$ 1,573,859 | \$ (1,234,145) |

The Company recorded goodwill and intangible assets as a result of the business combinations that were completed during 2011 and that are discussed throughout this Form 10-K. These assets were valued with the assistance of a valuation consultant and consisted of Level 3 valuation techniques.

The Company recorded derivative liabilities as a result of: (i) the variable maturity conversion feature in its convertible notes payable; (ii) the additional security issuance feature in its convertible notes payable notes, common stock and warrants; and (iii) warrants issued to non-employees that are treated as derivative liabilities. These liabilities were valued with the assistance of a valuation consultant and consisted of Level 3 valuation techniques.

The Company's financial instruments consist of cash, accounts receivable, accounts payable, accrued liabilities and notes payable. The estimated fair value of cash, accounts receivable, accounts payable and accrued liabilities approximate their carrying amounts due to the short-term nature of these instruments. The carrying value of notes payable also approximates fair value because their terms are similar to those in the lending market for comparable loans with comparable risks. None of these instruments are held for trading purposes.

Accounts Receivable

Accounts receivable are carried at their estimated collectible amounts. The Company grants unsecured credit to substantially all of its customers. Ongoing credit evaluations are performed and potential credit losses are charged to operations at the time the account receivable is estimated to be uncollectible. Since the Company cannot necessarily predict future changes in the financial stability of its customers, the Company cannot guarantee that its reserves will continue to be adequate.

From time to time, the Company may have a limited number of customers with individually large amounts due. Any unanticipated change in one of the customer's credit worthiness could have a material effect on the results of operations in the period in which such changes or events occurred. As of December 31, 2012 and 2011, the Company recorded an allowance for doubtful accounts of \$44,700 and \$18,050, respectively. As of December 31, 2012, the Company had one customer whose balance represented 43% of total accounts receivable. As of December 31, 2011, no single customer had a balance greater than 10%.

Equipment

Equipment, which is recorded at cost, consists primarily of computer equipment and is depreciated using the straight-line method over the estimated useful lives of the related assets (generally five years or less). Costs incurred for maintenance and repairs are expensed as incurred and expenditures for major replacements and improvements are capitalized and depreciated over their estimated remaining useful lives. Depreciation expense for the years ended December 31, 2012 and 2011 was \$22,153 and \$19,712, respectively. Accumulated depreciation for the Company's equipment at December 31, 2012 and 2011 totaled \$156,174 and \$134,810, respectively.

Net property and equipment were as follows:

| | December 31, 2012 | December 31, 2011 |
|-------------------------------|----------------------|----------------------|
| Equipment | \$ 155,716 | \$ 146,872 |
| Furniture and Fixtures | 14,569 | 13,254 |
| Subtotal | 170,285 | 160,126 |
| Less accumulated depreciation | (156,174) | (134,810) |
| Total | <u>\$ 14,111</u> | <u>\$ 25,316</u> |

Goodwill and Other Intangible Assets

During the year ended December 31, 2011, the Company completed the three acquisitions discussed in Note 3 which resulted in the recording of goodwill and other intangible assets.

Also during the year ended December 31, 2011, the Company capitalized \$85,000 related to its acquisition of U.S. Patent Number 6,788,769 from eMediacy, Inc. for cash and 14,286 shares of common stock, and costs incurred to prosecute other patent applications. The Company is amortizing the costs on a straight-line basis over an estimated useful life of twenty years.

The Company periodically reviews the carrying value of intangible assets not subject to amortization, including goodwill, to determine whether impairment may exist. Goodwill and certain intangible assets are assessed annually, or when certain triggering events occur, for impairment using fair value measurement techniques. These events could include a significant change in the business climate, legal factors, a decline in operating performance, competition, sale or disposition of a significant portion of the business, or other factors. Specifically, goodwill impairment is determined using a two-step process. The first step of the goodwill impairment test is used to identify potential impairment by comparing the fair value of a reporting unit with its carrying amount, including goodwill. The Company uses Level 3 inputs and a discounted cash flow methodology to estimate the fair value of a reporting unit. A discounted cash flow analysis requires one to make various judgmental assumptions including assumptions about future cash flows, growth rates, and discount rates. The assumptions about future cash flows and growth rates are based on the Company's budget and long-term plans. Discount rate assumptions are based on an assessment of the risk inherent in the respective reporting units. If the fair value of a reporting unit exceeds its carrying amount, goodwill of the reporting unit is considered not impaired and the second step of the impairment test is unnecessary. If the carrying amount of a reporting unit exceeds its fair value, the second step of the goodwill impairment test is performed to measure the amount of impairment loss, if any. The second step of the goodwill impairment test compares the implied fair value of the reporting unit's goodwill with the carrying amount of that goodwill. If the carrying amount of the reporting unit's goodwill exceeds the implied fair value of that goodwill, an impairment loss is recognized in an amount equal to that excess. The implied fair value of goodwill is determined in the same manner as the amount of goodwill recognized in a business combination. That is, the fair value of the reporting unit is allocated to all of the assets and liabilities of that unit (including any unrecognized intangible assets) as if the reporting unit had been acquired in a business combination and the fair value of the reporting unit was the purchase price paid to acquire the reporting unit.

The Company's evaluation of goodwill completed during the years ended December 31, 2012 and 2011 resulted in impairment charges of \$742,446 and \$10,435,170, respectively, related to its three acquisitions during 2011.

As of December 31, 2012 and 2011, amortizable intangible assets consist of patents, trademarks, customer contracts, customer relationships, trade name, acquired technology, and non-compete agreements. These intangibles are being amortized on a straight line basis over their estimated useful lives of one to twenty years. During the years ended December 31, 2012 and 2011, the Company recorded amortization expense for the intangible assets of \$526,997 and \$724,375, respectively.

During the years ended December 31, 2012 and 2011, the Company recognized impairment charges of \$145,396 and \$1,325,134, respectively, related to the intangible assets acquired in its three acquisitions during 2011.

Impairment of Long-Lived Assets

The Company has adopted Accounting Standards Codification subtopic 360-10, Property, Plant and Equipment ("ASC 360-10"). ASC 360-10 requires that long-lived assets and certain identifiable intangibles held and used by the Company be reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. The Company evaluates its long-lived assets for impairment annually or more often if events and circumstances warrant. Events relating to recoverability may include significant unfavorable changes in business conditions, recurring losses or a forecasted inability to achieve break-even operating results over an extended period. The Company evaluates the recoverability of long-lived assets based upon forecasted undiscounted cash flows. Should impairment in value be indicated, the carrying value of intangible assets will be adjusted, based on estimates of future discounted cash flows resulting from the use and ultimate disposition of the asset. ASC 360-10 also requires that those assets to be disposed of are reported at the lower of the carrying amount or the fair value less costs to sell.

Derivative Financial Instruments

The Company does not use derivative instruments to hedge exposures to cash flow, market or foreign currency risks.

The Company reviews the terms of the common stock, warrants and convertible debt it issues to determine whether there are embedded derivative instruments, including embedded conversion options, which are required to be bifurcated and accounted for separately as derivative financial instruments. In circumstances where the host instrument contains more than one embedded derivative instrument, including the conversion option, that is required to be bifurcated, the bifurcated derivative instruments are accounted for as a single, compound derivative instrument.

Bifurcated embedded derivatives are initially recorded at fair value and are then revalued at each reporting date with changes in the fair value reported as non-operating income or expense. When the equity or convertible debt instruments contain embedded derivative instruments that are to be bifurcated and accounted for as liabilities, the total proceeds received are first allocated to the fair value of all the bifurcated derivative instruments. The remaining proceeds, if any, are then allocated to the host instruments themselves, usually resulting in those instruments being recorded at a discount from their face value.

The discount from the face value of the convertible debt, together with the stated interest on the instrument, is amortized over the life of the instrument through periodic charges to interest expense, using the effective interest method.

The fair value of the derivatives is estimated using a Monte Carlo simulation model. The model utilizes a series of inputs and assumptions to arrive at a fair value at the date of inception and each reporting period. Some of the key assumptions include the likelihood of future financing, stock price volatility, and discount rates.

See Note 5 for detailed information on the Company's derivative liabilities.

Revenue Recognition

The Company's "C4" Mobile Marketing and Customer Relationship Management (CRM) platform is a hosted solution, as is the newly acquired Txtstation Control Center platform. The Company generates revenue from licensing its software to clients in its software as a service (SaaS) model, per-message and per-minute transactional fees, and customized professional services. The Company recognizes license fees over the period of the contract, service fees as the services are performed, and per-message or per-minute transaction revenue when the transaction takes place. The Company recognizes revenue at the time that the services are rendered, the selling price is fixed, and collection is reasonably assured, provided no significant obligations remain. The Company considers authoritative guidance on multiple deliverables in determining whether each deliverable represents a separate unit of accounting. As for the newly acquired Mobivity and Boomtext platforms, which are both hosted solutions, revenue is principally derived from subscription fees from customers. The subscription fee is billed on a month to month basis with no contractual term and is collected by credit card for Mobivity and collected by cash and credit card for Boomtext. Revenue is recognized at the time that the services are rendered and the selling price is fixed with a set range of plans. Cash received in advance of the performance of services is recorded as deferred revenue.

As of December 31, 2012 and 2011, deferred revenues from related parties totaled \$35,262 and \$200,000 respectively. The Company recognized deferred revenue from related parties during the year ended December 31, 2012 totaling \$164,738 and did not recognize any deferred revenue from related parties during the year ended December 31, 2011. As of December 31, 2012 and 2011, deferred revenues from third parties totaled \$164,631 and \$109,063, respectively.

During the year ended December 31, 2012, one customer accounted for 14.4% of our revenues. No single customer accounted for more than 10% of our revenues during the year ended December 31, 2011.

Stock-based Compensation

The Company accounts for stock-based compensation in accordance with Financial Accounting Standards Board ("FASB") ASC Topic 718 Stock Compensation, which establishes accounting for equity instruments exchanged for employee services. Under such provisions, stock-based compensation cost is measured at the grant date, based on the calculated fair value of the award, and is recognized as an expense, under the straight-line method, over the employee's requisite service period (generally the vesting period of the equity grant). In accordance with ASC 718, the Company estimates forfeitures at the time of grant and revises the estimates if necessary, if actual forfeiture rates differ from those estimates. Stock options issued to employees are accounted for at their estimated fair value determined using the Black-Scholes option-pricing model. The Company recorded employee stock based compensation for the years ended December 31, 2012 and 2011 of \$391,410 and \$416,012, respectively.

The Company accounts for equity instruments, including restricted stock or stock warrants, issued to non-employees in accordance with authoritative guidance for equity based payments to non-employees. Stock warrants issued to non-employees are accounted for as derivative liabilities at their estimated fair value determined using a Monte Carlo simulation. At the date of issuance, the fair value of the stock warrants is expensed to change in fair value of derivative liabilities. The fair value of options granted to non-employees is re-measured as they vest, and the resulting change in value, if any, is recognized as change in fair value of derivative liabilities during the period the related services are rendered. Restricted stock issued to non-employees is accounted for at its estimated fair value as it vests.

Long Term Accounts Payable

As of December 31, 2011, the Company recorded amounts pertaining to payments made prior to the acquisition of Boomtext as well as amounts due to it from the sellers of Boomtext in accounts that are included in Other Assets and Long Term Accounts Payable. The amount recorded as a receivable from the sellers of Boomtext totaled \$148,930, and the amount due to these sellers totaled \$125,846 at December 31, 2011.

As of December 31, 2012, these amounts have been reclassified to Other Current Assets and Other Current Liabilities, since these balances will be settled in March of 2013 when the Earn-out payable to Boomtext is paid. The amount recorded as a receivable from the sellers of Boomtext totaled \$153,317 and the amount due to these sellers totaled \$137,638 at December 31, 2012.

Income Taxes

The Company accounts for income taxes in accordance with ASC Topic 740, Income Taxes. Deferred tax assets and liabilities arise from temporary differences between the tax bases of assets and liabilities and their reported amounts in the financial statements that will result in taxable or deductible amounts in future years.

Management evaluates the available evidence about future taxable income and other possible sources of realization of deferred tax assets. The valuation allowance reduces deferred tax assets to an amount that represents management's best estimate of the amount of such deferred tax assets that more likely than not will be realized.

The Company recognizes the tax benefit from an uncertain tax position only if it is more likely than not that the tax positions will be sustained on examination by the tax authorities, based on the technical merits of the position. The tax benefit is measured based on the largest benefit that has a greater than 50% likelihood of being realized upon ultimate settlement. The Company recognizes interest and penalties related to income tax matters in income tax expense.

Comprehensive Income (Loss)

Comprehensive income (loss) is defined as the change in equity during a period from transactions and other events and circumstances from non-owner sources. The Company is required to record all components of comprehensive income (loss) in the consolidated financial statements in the period in which they are recognized. Net income (loss) and other comprehensive income (loss), including foreign currency translation adjustments and unrealized gains and losses on investments, are reported, net of their related tax effect, to arrive at comprehensive income (loss). For the years ended December 31, 2012 and 2011, the comprehensive loss was equal to the net loss.

Net Loss Per Common Share

Net loss per share is presented as both basic and diluted net loss per share. Basic net loss per share excludes any dilutive effects of options, shares subject to repurchase and warrants. Diluted net loss per share includes the impact of potentially dilutive securities. During 2012 and 2011, the Company had securities outstanding which could potentially dilute basic earnings per share in the future, but were excluded from the computation of diluted net loss per share, as their effect would have been anti-dilutive. These outstanding securities are noted in the table below. In addition, see potential issuances associated with warrants and convertible notes payable in Notes 5 and 6.

| | <u>December 31,</u> <u>2012</u> | <u>December 31,</u> <u>2011</u> |
|-----------------------------------|------------------------------------|------------------------------------|
| Outstanding employee options | 1,955,000 | 1,610,000 |
| Outstanding non-employee warrants | 905,000 | 905,000 |
| Outstanding PIPE warrants | <u>842,184</u> | <u>842,184</u> |
| | <u>3,702,184</u> | <u>3,357,184</u> |

Reclassifications

Certain amounts from prior periods have been reclassified to conform to the current period presentation.

Recent Accounting Pronouncements

Accounting standards promulgated by the FASB are subject to change. Changes in such standards may have an impact on the Company's future financial statements. The following are a summary of recent accounting developments.

In October 2012, the FASB issued Accounting Standards Update (ASU) 2012-04, "Technical Corrections and Improvements" in Accounting Standards Update No. 2012-04. The amendments in this update cover a wide range of Topics in the Accounting Standards Codification. These amendments include technical corrections and improvements to the Accounting Standards Codification and conforming amendments related to fair value measurements. The amendments in this update will be effective for fiscal periods beginning after December 15, 2012. The adoption of ASU 2012-04 is not expected to have a material impact on our financial position or results of operations.

In August 2012, the FASB issued ASU 2012-03, "Technical Amendments and Corrections to SEC Sections: Amendments to SEC Paragraphs Pursuant to SEC Staff Accounting Bulletin (SAB) No. 114, Technical Amendments Pursuant to SEC Release No. 33-9250, and Corrections Related to FASB Accounting Standards Update 2010-22 (SEC Update)" in Accounting Standards Update No. 2012-03. This update amends various SEC paragraphs pursuant to the issuance of SAB No. 114. The adoption of ASU 2012-03 is not expected to have a material impact on our financial position or results of operations.

In July 2012, the FASB issued ASU 2012-02, "Testing Indefinite-Lived Intangible Assets for Impairment" in Accounting Standards Update No. 2012-02. ASU 2012-2 allows entities to use a qualitative approach to test indefinite-lived intangible assets for impairment. ASU No. 2012-02 permits an entity to first assess qualitative factors to determine whether it is more likely than not that the fair value of the indefinite-lived intangible asset is less than its carrying value. If it is concluded that this is the case, it is necessary to perform the currently prescribed quantitative impairment test. Otherwise, the quantitative impairment test is not required. ASU No. 2012-02 is effective for annual and interim impairment tests performed for fiscal years beginning after September 15, 2012, with early adoption permitted. The adoption of the provisions of ASU No. 2012-02 will not have a material impact on the Company's financial position or results of operations.

In December 2011, FASB issued ASU 2011-11, "Balance Sheet - Disclosures about Offsetting Assets and Liabilities" in Accounting Standards Update No. 2011-11. This update enhances disclosure requirements relating to the offsetting of assets and liabilities on an entity's balance sheet. The update requires enhanced disclosures regarding assets and liabilities that are presented net or gross in the statement of financial position when the right of offset exists, or that are subject to an enforceable master netting arrangement. The new disclosure requirements relating to this update are retrospective and effective for annual and interim periods beginning on or after January 1, 2013. The update only requires additional disclosures, as such; we do not expect that the adoption of this standard will have a material impact on our results of operations, cash flows or financial condition.

In September 2011, the FASB issued ASU No. 2011-08, "Intangibles – Goodwill and Other (Topic 350): Testing Goodwill for Impairment" in Accounting Standards Update No. 2011-08. The guidance in ASU 2011-08 is intended to reduce complexity and costs by allowing an entity the option to make a qualitative evaluation about the likelihood of goodwill impairment to determine whether it should calculate the fair value of a reporting unit. The amendments also improve previous guidance by expanding upon the examples of events and circumstances that an entity should consider between annual impairment tests in determining whether it is more likely than not that the fair value of a reporting unit is less than its carrying amount. Also, the amendments improve the examples of events and circumstances that an entity having a reporting unit with a zero or negative carrying amount should consider in determining whether to measure an impairment loss, if any, under the second step of the goodwill impairment test. The amendments in this ASU are effective for annual and interim goodwill impairment tests performed for fiscal years beginning after December 15, 2011. Early adoption is permitted, including for annual and interim goodwill impairment tests performed as of a date before September 15, 2011, if an entity's financial statements for the most recent annual or interim period have not yet been issued. The adoption of this guidance is not expected to have a material impact on the Company's financial position or results of operations.

In May 2011, the FASB issued ASU No. 2011-04, "Fair Value Measurement (Topic 820): Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements in U.S. GAAP and IFRSs" in Accounting Standards Update No. 2011-04. This update clarifies the application of certain existing fair value measurement guidance and expands the disclosures for fair value measurements that are estimated using significant unobservable (Level 3) inputs. This update is effective on a prospective basis for annual and interim reporting periods beginning on or after December 15, 2011, which for the Company is January 1, 2012. The Company does not expect that adopting this update will have a material impact on its consolidated financial statements.

3. Acquisitions

Txtstation Acquisition

In April 2011, the Company acquired substantially all of the assets of the Txtstation interactive mobile marketing platform and services business from Adspaq Limited ("Adspaq").

The purchase price for the acquisition consisted of: (i) 2,125,000 shares of the Company's common stock; (ii) \$26,184 in cash at closing; and (iii) \$250,000 of scheduled cash payments.

The \$250,000 of scheduled cash payments was due as follows: \$25,000 was payable on the 60th day following closing and the balance was payable in \$25,000 installments at the end of each of the next nine 30-day periods thereafter. At closing, the Company recorded a cash payment obligation of \$241,960 representing the net present value of the scheduled cash payments. See Note 6 under Cash Payment Obligation.

The Company assumed none of Adspaq's liabilities in the transaction, except for the performance obligation of unearned revenue. For a period of one year following the closing of the transaction, half of the shares of common stock issued to Adspaq were held in escrow as security for Adspaq's obligations under the agreement.

In connection with the transaction, the Company also issued 300,000 shares of its common stock to the controlling stockholder of Adspaq in consideration of certain indemnification obligations and other agreements. The value of these shares was included in the purchase price. For one year following the closing of the transaction, the shareholder agreed not to, directly or indirectly, transfer, donate, sell, assign, pledge, hypothecate, grant a security interest in or otherwise dispose or attempt to dispose of all or any portion of shares issued to it (or any interest therein).

The Company completed the acquisition in furtherance of its strategy to acquire small, privately owned enterprises in the mobile marketing sector through an asset purchase structure. This acquisition was consistent with the Company's purchase price model in which equity will represent most of the purchase price plus a small cash component and, in some cases, the assumption of specific liabilities.

The acquisition has been accounted for as a business combination and the Company valued all assets and liabilities acquired at their fair values on the date of acquisition. An independent valuation expert was hired to assist the Company in determining these fair values. Accordingly, the assets and liabilities of the acquired entity were recorded at their estimated fair values at the date of the acquisition.

Actual results of operations of Txtstation are included in the Company's consolidated financial statements from the date of acquisition. The allocation of the purchase price to assets and liabilities based upon fair value determinations was as follows:

| | | |
|--|----|------------------|
| Current assets | \$ | 10,184 |
| Equipment | | 31,230 |
| Customer contracts | | 1,026,000 |
| Trade name | | 36,000 |
| Technology / IP | | 182,000 |
| Non-compete | | 1,000 |
| Goodwill | | 6,373,730 |
| Assumed liabilities - deferred revenue | | (20,000) |
| Total purchase price | \$ | <u>7,640,144</u> |

The consideration given consisted of the following:

| | |
|--|---------------------|
| Cash | \$ 26,184 |
| Present value of scheduled cash payments | 241,960 |
| Common stock | <u>7,372,000</u> |
| Total purchase price | <u>\$ 7,640,144</u> |

Mobivity Acquisition

In April 2011, the Company completed the acquisition of Mobivity, LLC's and Mobile Visions, Inc.'s Mobivity interactive mobile marketing platform and services business.

The purchase price for the acquisition consisted of (i) 1,000,000 shares of the Company's common stock; (ii) \$64,969 in cash paid at closing and (iii) a secured subordinated promissory note of Mobivity, Inc. with a principal amount of \$606,064. No liabilities were assumed in the acquisition.

The promissory note discussed in (iii) above earned interest at 6.25% per annum; was payable in six quarterly installments of \$105,526 (inclusive of interest) starting May 1, 2011; matured on August 1, 2012; was secured by the acquired assets of the Mobivity business; and was subordinated to the Company's obligations under its outstanding 10% Senior Secured Convertible Bridge Notes due February 2, 2012 and May 2, 2012. Mobivity, LLC was granted a security interest in the acquired assets, subordinated only to the Company's senior debt (Bridge Notes), and a majority of the Bridge Note holders consented to the junior security interest. See Note 6 under Bridge Financing.

The Company completed the acquisition in furtherance of its strategy to acquire small, privately owned enterprises in the mobile marketing sector through an asset purchase structure. This acquisition was consistent with the Company's purchase price model in which equity will represent most of the purchase price plus a small cash component and, in some cases, the assumption of specific liabilities.

The acquisition has been accounted for as a business combination and the Company valued all assets and liabilities acquired at their fair values on the date of acquisition. An independent valuation expert was hired to assist the Company in determining these fair values. Accordingly, the assets and liabilities of the acquired entity were recorded at their estimated fair values at the date of the acquisition.

Actual results of the operations acquired are included in the Company's consolidated financial statements from the date of acquisition. The allocation of the purchase price to assets and liabilities based upon fair value determinations was as follows:

| | |
|------------------------|---------------------|
| Customer relationships | \$ 814,000 |
| Trade name | 65,000 |
| Technology / IP | 217,000 |
| Non-compete | 5,000 |
| Goodwill | <u>2,690,033</u> |
| Total purchase price | <u>\$ 3,791,033</u> |

The consideration given consisted of the following:

| | |
|-----------------------------------|---------------------|
| Cash | \$ 64,969 |
| Subordinated secured note payable | 606,064 |
| Common stock | <u>3,120,000</u> |
| Total purchase price | <u>\$ 3,791,033</u> |

BoomText Acquisition

In August 2011, the Company completed the purchase from Digimark, LLC (“Digimark”) of substantially all of the assets of its BoomText interactive mobile marketing services business.

The purchase price for the acquisition consisted of the following components: (i) 519,540 shares of the Company’s common stock issued at closing; (ii) \$120,514 in cash paid at closing; (iii) a secured subordinated promissory note issued by Mobivity, Inc. in the principal amount of \$175,000; (iv) an unsecured subordinated promissory note issued by Mobivity Inc. in the principal amount of \$194,658; and (v) an earn-out payment. The purchase price also included the assumption of an office lease obligation and certain of Digimark’s accounts payable.

The note discussed in (iii) above had an interest rate of 6.25% per annum and was secured by all of the assets of Mobivity, Inc. and was subordinated to the Company’s obligations under its outstanding 10% Senior Secured Convertible Bridge Notes due October 15, 2012. See Note 6 under Digimark, LLC Notes and under Bridge Notes.

The note discussed in (iv) above does not bear interest; is payable in installments (varying in amount) from August 2011 through October 2012; and is subordinated to the Company’s obligations under its outstanding 10% Senior Secured Convertible Bridge Notes due October 15, 2012 (see Note 6). Because this note does not bear interest, the Company recorded \$182,460 as the net present value of the payments due over the subsequent periods. See Note 6 under Digimark, LLC Notes.

The earn-out payment discussed in (v) above is payable 20 months after closing of the transaction, and consists of a number of shares of common stock of the Company equal to (a) 1.5, multiplied by the Company’s net revenue from acquired customers and customer prospects for the twelve-month period beginning six months after the closing date, divided by (b) the average of the volume-weighted average trading prices of the Company’s common stock for the 25 trading days immediately preceding the earn-out payment (subject to a collar of \$1.49 and \$2.01 per share). As of December 31, 2012, the dollar value of the earn-out payable is \$2,032,881, which equates to an estimated 1,364,350 shares of common stock. During the years ended December 31, 2012 and 2011, the Company recorded a gain on adjustment of contingent consideration of \$625,357 and \$999,347, resulting from the change in value of the estimated earn-out payment. See Note 10 Earn-Out Contingency.

For one year and six months following the closing of the transaction, 50% of the shares of common stock issued to Digimark at closing will be held in escrow as security for its indemnification obligations in the transaction.

The Company completed the acquisition in furtherance of its strategy to acquire small, privately owned enterprises in the mobile marketing sector through an asset purchase structure. This acquisition was consistent with the Company's purchase price model in which equity will represent most of the purchase price plus a small cash component and, in some cases, the assumption of specific liabilities.

The acquisition has been accounted for as a business combination and the Company valued all assets and liabilities acquired at their fair values on the date of acquisition. An independent valuation expert was hired to assist the Company in determining these fair values. Accordingly, the assets and liabilities of the acquired entity were recorded at their estimated fair values at the date of the acquisition.

Actual results of the operations acquired are included in the Company’s consolidated financial statements from the date of acquisition. The allocation of the purchase price to assets and liabilities based upon fair value determinations was as follows:

| | |
|------------------------|---------------------|
| Prepaid assets | \$ 3,000 |
| Customer relationships | 592,000 |
| Trade name | 39,000 |
| Technology / IP | 59,000 |
| Non-compete | 10,000 |
| Goodwill | <u>4,373,477</u> |
| Total purchase price | <u>\$ 5,076,477</u> |

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The consideration given consisted of the following:

| | | |
|--|----|------------------|
| Cash | \$ | 120,514 |
| Secured subordinated promissory note | | 175,000 |
| Unsecured subordinated promissory note | | 182,460 |
| Common stock | | 826,069 |
| Earn-out payable | | 3,657,585 |
| Liabilities assumed | | 114,849 |
| Total purchase price | \$ | <u>5,076,477</u> |

Estimated Useful Lives of Acquired Intangibles

The estimated useful lives of the acquired intangibles are as follows:

| | Useful Lives (Years) | | |
|------------------------|----------------------|-----------------|-----------------|
| | <u>Txtstation</u> | <u>Mobivity</u> | <u>Boomtext</u> |
| Customer contracts | 5 | n/a | n/a |
| Customer relationships | n/a | 2 | 2 |
| Trade name | 1 | 5 | 1 |
| Technology / IP | 5 | 5 | 1 |
| Non-compete | 1.5 | 2 | 2 |
| Goodwill | n/a | n/a | n/a |

Acquisition Related Costs

The Company recorded \$223,207 in acquisition-related costs for accounting, legal and other costs in connection with the three acquisitions within the general and administrative expenses in its consolidated statement of operations for the year ended December 31, 2011. The Company incurred no acquisition costs during the year ended December 31, 2012.

Pro Forma Information

The following summary presents unaudited pro forma consolidated results of operations as if the Txtstation, Mobivity, and Boomtext (the "Acquired Companies") acquisitions described above had occurred on January 1, 2011 and 2010. The unaudited pro forma consolidated results of operations combines the historical results of operations of the Company and the Acquired Companies for the years ended December 31, 2011 and 2010, and gives effect to certain adjustments, including the reduction in compensation expense related to non-recurring executive salary expense and non-recurring acquisition related costs incurred by the Company, the amortization of acquired intangible assets and interest expense on acquisition related debt.

The unaudited pro forma condensed results of operations has been prepared for comparative purposes only and does not purport to be indicative of the actual operating results that would have been recorded had the acquisitions actually taken place on January 1, 2011 or 2010, and should not be taken as indicative of future consolidated operating results.

| | <u>Years ended December 31,</u> | |
|--------------------|---------------------------------|----------------|
| | <u>2011</u> | <u>2010</u> |
| Pro forma revenue | \$ 3,678,963 | \$ 3,294,422 |
| Pro forma net loss | \$ (16,688,474) | \$ (2,476,229) |

4. Goodwill and Purchased Intangibles

Goodwill

As required under ASC 350, Intangibles - Goodwill and Other, goodwill is separately disclosed from other intangible assets on the consolidated balance sheet and not amortized, and is tested for impairment on at least an annual basis.

As a result of the three acquisitions during the year ended December 31, 2011, the Company recorded goodwill totaling \$13,437,240. As a result of the goodwill impairment test for the year ended December 31, 2011 discussed below, the Company recorded goodwill impairment of \$10,435,170. The carrying value of goodwill at December 31, 2011 was \$3,002,070. As a result of the goodwill impairment test for the year ended December 31, 2012 discussed below, the Company recorded goodwill impairment of \$742,446. The carrying value of goodwill at December 31, 2012 was \$2,259,624.

Beginning in 2011, the Company performed its annual goodwill impairment test outlined under ASC 350 which requires the assessment of goodwill for impairment on an annual basis.

The Company evaluated goodwill for impairment at December 31, 2012 and 2011. The first step of the goodwill impairment test is used to identify potential impairment by comparing the fair value of a reporting unit with its carrying amount, including goodwill. The Company uses level 3 inputs and a discounted cash flow methodology to estimate the fair value of a reporting unit. A discounted cash flow analysis requires one to make various judgmental assumptions including assumptions about future cash flows, growth rates, and discount rates. The assumptions about future cash flows and growth rates are based on the Company's budget and long-term plans. Discount rate assumptions are based on an assessment of the risk inherent in the respective reporting units. If the fair value of a reporting unit exceeds its carrying amount, goodwill of the reporting unit is considered not impaired and the second step of the impairment test is unnecessary. If the carrying amount of a reporting unit exceeds its fair value, the second step of the goodwill impairment test is performed to measure the amount of impairment loss, if any. The second step of the goodwill impairment test compares the implied fair value of the reporting unit's goodwill with the carrying amount of that goodwill. If the carrying amount of the reporting unit's goodwill exceeds the implied fair value of that goodwill, an impairment loss is recognized in an amount equal to that excess. The implied fair value of goodwill is determined in the same manner as the amount of goodwill recognized in a business combination. That is, the fair value of the reporting unit is allocated to all of the assets and liabilities of that unit (including any unrecognized intangible assets) as if the reporting unit had been acquired in a business combination and the fair value of the reporting unit was the purchase price paid to acquire the reporting unit.

Intangible assets

The following table presents details of the Company's total purchased intangible assets as of December 31, 2012:

| | Balance at December 31, 2011 | Amortization | Impairment | Balance at December 31, 2012 |
|------------------------|------------------------------------|---------------------|---------------------|------------------------------------|
| Patents and trademarks | \$ 120,016 | \$ (8,396) | \$ - | \$ 111,620 |
| Customer contracts | 103,000 | (24,235) | - | 78,765 |
| Customer relationships | 496,999 | (349,094) | (118,849) | 29,056 |
| Trade name | 70,750 | (40,162) | - | 30,588 |
| Technology / IP | 322,116 | (102,111) | (26,547) | 193,458 |
| Non-compete | 3,625 | (3,000) | - | 625 |
| | <u>\$ 1,116,506</u> | <u>\$ (526,998)</u> | <u>\$ (145,396)</u> | <u>\$ 444,112</u> |

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The following table presents details of the Company's total purchased intangible assets as of December 31, 2011:

| | Balance at December 31, 2010 | Additions | Amortization | Impairment | Balance at December 31, 2011 |
|------------------------|------------------------------------|---------------------|---------------------|-----------------------|------------------------------------|
| Patents and trademarks | \$ - | \$ 127,000 | \$ (6,984) | - | \$ 120,016 |
| Customer contracts | - | 1,026,000 | (153,900) | (769,100) | 103,000 |
| Customer relationships | - | 1,406,000 | (428,584) | (480,417) | 496,999 |
| Trade name | - | 140,000 | (53,000) | (16,250) | 70,750 |
| Technology / IP | - | 458,000 | (84,434) | (51,450) | 322,116 |
| Non-compete | - | 16,000 | (4,458) | (7,917) | 3,625 |
| | <u>\$ -</u> | <u>\$ 3,173,000</u> | <u>\$ (731,360)</u> | <u>\$ (1,325,134)</u> | <u>\$ 1,116,506</u> |

The intangible assets are being amortized on a straight line basis over their estimated useful lives of one to twenty years. During the years ended December 31, 2012 and 2011, the Company recorded amortization expense related to its purchased intangibles of \$526,998 and \$731,360, respectively, which is included in depreciation and amortization in the consolidated statement of operations.

The estimated future amortization expense of purchased intangible assets as of December 31, 2012 is as follows:

| Year ending December 31, | Amount |
|--------------------------|-------------------|
| 2013 | \$ 125,956 |
| 2014 | 96,275 |
| 2015 | 96,275 |
| 2016 | 47,570 |
| 2017 | 8,396 |
| Thereafter | 69,640 |
| | <u>\$ 444,112</u> |

Beginning in 2011, the Company evaluated its purchased intangibles for possible impairment on an ongoing basis. When impairment indicators exist, the Company will perform an assessment to determine if the intangible asset has been impaired and to what extent. The assessment of purchased intangibles impairment is conducted by first estimating the undiscounted future cash flows to be generated from the use and eventual disposition of the purchased intangibles and comparing this amount with the carrying value of these assets. If the undiscounted cash flows are less than the carrying amounts, impairment exists and future cash flows are discounted at an appropriate rate and compared to the carrying amounts of the purchased intangibles to determine the amount of the impairment.

During the years ended December 31, 2012 and 2011, the Company recognized \$145,396 and \$1,325,134, respectively, of intangible asset impairment expense.

5. Derivative Liabilities

As discussed in Note 6 under Bridge Financing, the Company issued convertible notes payable that provide for the issuance of warrants to purchase its common stock at a future date. The conversion term for the convertible notes is variable based on certain factors. The number of warrants to be issued is based on the future price of the Company's common stock. As of December 31, 2012 and 2011, the number of warrants to be issued is indeterminate. Due to the fact that the number of warrants issuable is indeterminate, the equity environment is tainted and all additional warrants and convertible debt are included in the value of the derivative. Pursuant to ASC 815-15 Embedded Derivatives, the fair values of the variable maturity conversion option, additional share issuance derivative and warrants / shares to be issued were recorded as derivative liabilities on the issuance date.

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As discussed in Note 7 under Common Stock, the Company completed a private placement in September 2011. The private placement structure consisted of a series of identical subscription agreements for the sale of units comprised of shares of the Company's common stock at a price of \$1.50 per share and an equivalent number of warrants at an exercise price of \$2.00. Both the common shares and the warrants contain anti-dilutive, or down round, price protection. Pursuant to ASC 815-15 Embedded Derivatives and ASC 815-40 Contracts in Entity's Own Equity, the Company recorded a derivative liability for the warrants issued in the transactions.

In October 2012, the exercise price of the warrants was reduced from \$2.00 per share to \$0.50 per share as a result of the price protection guarantee contained in the warrant agreement.

The down round price protection on the common shares expired on August 15, 2012, resulting in a gain of \$236,369 during 2012. The derivative liability was reduced to zero and the gain was recorded as a change in the fair market value of the derivative liability. The down round protection for the warrant terminates when the warrant expires or is exercised.

As discussed in Note 6 under Bridge Financing, all note holders with convertible notes payable maturing on February 2, 2012 extended the maturity date through May 2, 2012. As consideration to the note holders for the extension of the maturity date, the Company provided allonges which consisted of the accrued interest on each convertible note payable as of January 31, 2012. The allonges are convertible into shares of common stock at the latest financing price. The value of the allonges was recorded as a derivative liability at the issuance date, and the Company recorded \$117,017 as the value of the allonges at December 31, 2012.

As discussed in Note 7 under Warrants, the Company accounts for warrants issued to non-employees as derivative liabilities.

The fair values of the Company's derivative liabilities are estimated at the issuance date and are revalued at each subsequent reporting date using a Monte Carlo simulation discussed below. At December 31, 2012 and 2011, the Company recorded current derivative liabilities of \$3,074,504 and \$1,573,859. The net change in fair value of the derivative liabilities for the years ended December 31, 2012 and 2011 was a gain of \$359,530, and a loss of (\$1,234,145), respectively, which were reported as other income/(expense) in the consolidated statements of operations.

The following table presents the derivative liabilities by instrument type as of December 31, 2012 and 2011:

| Derivative Value by Instrument Type | December 31, 2012 | December 31, 2011 |
|-------------------------------------|----------------------|----------------------|
| Convertible Bridge Notes | \$ 2,850,085 | \$ 747,424 |
| Common Stock and Warrants | 129,378 | 826,435 |
| Non-employee Warrants | 95,041 | - |
| | \$ 3,074,504 | \$ 1,573,859 |

The following table presents details of the Company's derivative liabilities as of December 31, 2012 and 2011:

| | Total |
|--|--------------|
| Balance December 31, 2010 | \$ 334,478 |
| Issuances in derivative value due to new security issuances of notes | 149,197 |
| Issuances in derivative value due to new security issuances of common stock and warrants | 1,185,150 |
| Conversion of bridge notes into common stock and warrants | (143,961) |
| Change in fair market value of derivative liabilities | 48,995 |
| Balance December 31, 2011 | 1,573,859 |
| Issuances in derivative value due to new security issuances of notes | 5,352,404 |
| Issuances in derivative value due to allonges | 118,633 |
| Issuances in derivative value due to vesting of non-employee warrants | 485,700 |
| Adjustment to derivative liability due to debt repayment | (129,139) |
| Adjustment to derivative liability due to debt conversion | (3,361,772) |
| Adjustment to derivative liability due to warrant cancellation | (1,318) |
| Change in fair market value of derivative liabilities | (963,863) |
| Balance December 31, 2012 | \$ 3,074,504 |

The Company calculated the fair value of the compound embedded derivatives using a complex, customized Monte Carlo simulation model suitable to value path dependent American options. The model uses the risk neutral methodology adapted to value corporate securities. This model utilized subjective and theoretical assumptions that can materially affect fair values from period to period.

Key inputs and assumptions used in valuing the Company's derivative liabilities are as follows:

For issuances of notes, common stock and warrants:

- Stock prices on all measurement dates were based on the fair market value
- Down round protection is based on the subsequent issuance of common stock at prices less than \$1.50 per share and warrants less than \$0.50 per share
- The probability of future financing was estimated at 100%
- Computed volatility ranging from 60% to 65%
- Risk free rates ranging from 0.03% to 0.78%

For issuances of non-employee warrants:

- Computed volatility ranging from 60% to 73.4%
- Risk free rates ranging from 0.28% to 1.04%
- Expected life (years) ranging from 2.98 to 4.93

See Note 9 for a discussion of fair value measurements.

6. Bridge Financing, Notes Payable, Accrued Interest and Cash Payment Obligation

Bridge Financing

Summary

From 2010 to 2012, the Company issued 10% Senior Secured Convertible Bridge Notes Payable to various accredited investors, and then extended the due dates on these convertible notes payable several times. These convertible notes payable are collectively referred to as "Bridge Notes" or "new Bridge Notes". At December 31, 2012, the due date on the outstanding new Bridge Notes is April 15, 2013.

The Bridge Notes contain embedded derivative liabilities. In accordance with ASC 470-20 Debt with Conversion and Other Options, the Company recorded discounts for the variable conversion feature and for the warrants / shares to be issued. The discounts are amortized to interest expense over the term of the convertible notes payable using the effective interest method. In accordance with ASC 815-15, the Company determined that the variable maturity conversion feature and the warrants / shares to be issued represented embedded derivative features, and these are shown as derivative liabilities on the consolidated balance sheet. See Note 5.

The Company capitalized costs associated with the issuance of the Bridge Notes, and is amortizing these costs to interest expense over the term of the related Bridge Notes using the effective interest method.

The Company's obligations under the new Bridge Notes outstanding at December 31, 2012 are secured by all of the assets of the Company, including all shares of Mobivity, Inc., its wholly owned subsidiary.

As of December 31, 2012, the amount owed to one note holder of \$57,699 was past due. The Company made a payment of \$25,000 in January 2013, of which \$21,040 was allocated to the principal balance, and the remainder was allocated to accrued interest.

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The following table summarizes information relative to the outstanding new Bridge Notes at December 31, 2012 and 2011:

| | December 31, 2012 | December 31, 2011 |
|--|----------------------|----------------------|
| Bridge notes payable | \$ 4,342,418 | \$ 1,062,500 |
| Less unamortized discounts: | | |
| Variable maturity discount | (481,390) | (12,031) |
| Warrant discount | (1,003,359) | (47,739) |
| Bridge notes payable, net of discounts | <u>\$ 2,857,669</u> | <u>\$ 1,002,730</u> |

Following is a detailed discussion of the Bridge Notes transactions.

2011 and Prior

From November 2010 through March 2011, the Company issued to a number of accredited investors a series of its 10% Senior Secured Convertible Bridge Notes Payable (the “Bridge Notes”) in the aggregate principal amount of \$1,010,000 (the “Financing”). The Bridge Notes accrue interest at the rate of 10% per annum.

The entire principal amount evidenced by the Bridge Notes (the “Principal Amount”) plus all accrued and unpaid interest were due on the earlier of (i) the date the Company completes a financing transaction for the offer and sale of shares of common stock (including securities convertible into or exercisable for its common stock), in an aggregate amount of no less than 125% of the Principal Amount (a “Qualifying Financing”), and (ii) November 2, 2011. If the Bridge Notes were held to maturity, the Company would pay, at the option of the holder: i) in cash or ii) in securities to be issued by the Company in the Qualifying Financing at the same price paid by other investors. The Bridge Notes were secured by a first priority lien and security interest in all of the Company’s assets.

In November 2011, the Company entered into agreements with all holders of the then outstanding Bridge Notes. Under the terms of the agreements, holders of Bridge Notes totaling \$800,000 agreed to extend the maturity due date of the Bridge Notes to February 2, 2012. For these note holders, no change occurred in their rights.

Holders of the balance of the Bridge Notes totaling \$210,000 agreed to convert the entire principal amount plus all accrued and unpaid interest of \$20,271 into units (each, a “Unit”), each of which consists of one share of common stock of the Company and a four-year warrant to purchase one share of the Company’s common stock at \$2.00 per share. The conversion took place at a price of \$1.50 per Unit. Accordingly, the Company issued an aggregate of 153,515 shares of common stock and 153,515 warrants. As a result of the conversion, the holders of the converted Bridge Notes forfeited all rights there under, including the right to acquire warrants to purchase the Company’s common stock.

Also in November 2011, the Company issued additional Bridge Notes in the aggregate principal amount of \$262,500. These Bridge Notes were due February 2, 2012 and contained the same rights and privileges as the previously issued Bridge Notes.

2012

In January, 2012, the Company issued additional Bridge Notes in the principal amount of \$520,000. These Bridge Notes were due February 2, 2012 and contained the same rights and privileges as the previously issued Bridge Notes.

In March 2012, one note holder was repaid a partial principal balance of \$65,000 on a Bridge Note.

In April 2012, all note holders with Bridge Notes maturing in February 2, 2012 extended the maturity date through May 2, 2012. As consideration to the note holders for the extension of the maturity date, the Company provided allonges which consisted of the accrued interest for each Bridge Note as of January 31, 2012, which are convertible into shares of common stock at the latest financing price. The value of the allonges was recorded as a derivative liability. See Note 5.

In March 2012 and April 2012, the Company issued additional Bridge Notes in the aggregate principal amount of \$220,100 with a due date of May 2, 2012. In May 2012, these notes were cancelled and converted into the new Bridge Notes discussed below.

In May and June 2012, the Company issued to a number of accredited investors its new Bridge Notes in the principal amount of \$4,347,419 (the "new Bridge Notes"), consisting of (i) \$2,656,250 of new funds and (ii) \$1,691,169 principal amount plus accrued and unpaid interest outstanding under its previously issued Bridge Notes that were cancelled and converted into the new Bridge Notes. The new Bridge Notes accrue interest at the rate of 10% per annum.

The entire principal amount under the new Bridge Notes (the "new Principal Amount") plus all accrued and unpaid interest is due on the earlier of (i) the date the Company completes a financing transaction for the offer and sale of shares of common stock (including securities convertible into or exercisable for its common stock), in an aggregate amount of no less than 125% of the new Principal Amount (a "new Qualifying Financing"), and (ii) October 15, 2012, which date, as described below, was later extended to April 15, 2013. Payments may be made in cash, or, at the option of the holder of the new Bridge Notes, in securities to be issued by the Company in the new Qualifying Financing at the same price paid for such securities by other investors. The new Bridge Notes are secured by a first priority lien and security interest in all of the Company's assets.

The Company will also issue to the holders of the new Bridge Notes on the date that is the earlier of the repayment of the new Bridge Notes or the completion of the new Qualifying Financing, at their option:

- five year warrants to purchase that number of shares of common stock equal to the new Principal Amount plus all accrued and unpaid interest divided by the per share purchase price of the common stock offered and sold in the new Qualifying Financing (the "Offering Price") which warrants shall be exercisable at the Offering Price and shall include cashless exercise provisions commencing 18 months from the date of issuance of the warrants if there is not at that time an effective registration statement covering the shares of common stock exercisable upon exercise of the warrants, or
- that number of shares of common stock equal to the product arrived at by multiplying (x) the new Principal Amount plus all accrued and unpaid interest divided by the Offering Price and (y) 0.33.

The Company has granted piggy-back registration rights with respect to the securities to be issued in connection with the new Bridge Notes.

The new Bridge Notes further provide that in the event of a change of control transaction, the proceeds from such transaction must be used by the Company to pay to the holders of the new Bridge Notes, pro rata based on the amount of new Bridge Notes owned by each holder, an amount equal to 1.5 times the amount of the aggregate principal amount outstanding under the new Bridge Notes, plus all accrued and unpaid interest due there under, plus all other fees, costs or other charges due there under.

The holders of the new Bridge Notes were also granted the right to appoint two designees to serve as members of the Company's board of directors, which members will also serve as members of the Compensation Committee and the Audit Committee of the Company's board of directors.

The Company used \$184,081 from the proceeds of the sale of the new Bridge Notes to pay off existing principal balances under the Bridge Notes that were not cancelled and converted into the new Bridge Notes.

In October 2012 and continuing thereafter, the Company entered into amendments with the holders the new Bridge Notes. Under the terms of the amendments, the holders of new Bridge Notes in the aggregate principal amount of \$4,342,419 agreed to extend the maturity date of the new Bridge Notes to April 15, 2013. In consideration of the new Bridge Note holders' agreement to extend the maturity date, the amendment provides that the holder shall have the option to convert the principal and interest under the new Bridge Note into the securities offered by the Company in a qualifying equity financing at the lower of (a) the same price paid for such securities by other investors investing in the financing or (b) \$0.50 per share (subject to adjustment in the event of a stock split, reclassification or the like). Prior to the amendment, the conversion option under the new Bridge Note entitled the holder to convert the principal and interest under the new Bridge Note into the securities offered by the Company in a qualifying equity financing at the same price paid for such securities by other investors investing in the financing. The conversion price of \$0.50 in (b) above triggered the price protection guarantee contained in the warrants issued in the Company's 2011 private placement, and the exercise price on the warrants changed from \$2.00 per share to \$0.50 per share.

In November 2012, one new Bridge Note holder was repaid \$5,000 in principal.

Discounts recorded related to the Bridge Notes

In accordance with ASC 470-20 Debt with Conversion and Other Options, the Company recorded discounts to the Bridge Notes for the variable conversion feature (“VMCO”) and discounts for the warrants / shares to be issued (“ASID”). The discounts will be amortized to interest expense over the term of the Bridge Notes using the effective interest method.

In accordance with ASC 815-15, the Company determined that the VMCO and the ASID represented embedded derivative features, and these are shown as derivative liabilities on the balance sheet. See Note 5.

The Company calculated the fair value of the compound embedded derivatives associated with the Bridge Notes utilizing a complex, customized Monte Carlo simulation model suitable to value path dependent American options. The model uses the risk neutral methodology adapted to value corporate securities. This model utilized subjective and theoretical assumptions that can materially affect fair values from period to period.

The new Bridge Notes contain embedded derivatives that on their inception date were valued with a Monte Carlo simulation. The embedded derivatives, as they represent additional consideration given to the new Bridge Note holders, were treated as a discount on the debt that is being amortized over the life of the new Bridge Notes which originally ended on October 15, 2012. The debt discounts booked as reductions to the new Bridge Notes during 2012 were \$478,544 and \$1,852,713, respectively, for the VMCO and the ASID. These discounts were fully amortized to interest expense in 2012.

The new Bridge Notes with the extended due date of April 15, 2013 contain embedded derivatives that on their inception date were valued with a Monte Carlo simulation. The embedded derivatives, as they represent additional consideration given to the new Bridge Note holders, were treated as a discount on the debt that is being amortized over the life of the new Bridge Notes which now ends on April 15, 2013. The debt discounts booked as reductions to the new Bridge Notes during October 2012 were \$849,135 and \$1,769,857, respectively, for the VMCO and the ASID. The Company recorded \$1,134,243 of interest expense in 2012 related to the amortization of these discounts. The value of the discounts at December 31, 2012 is \$1,484,749 which will be amortized to interest expense through April 15, 2015 using the effective interest method.

The following table presents details of the Company’s discounts to its Bridge Notes from December 31, 2010 to December 31, 2012:

| | <u>VMCO</u> | <u>ASID</u> | <u>Total</u> |
|-------------------|---------------------|-----------------------|-----------------------|
| December 31, 2010 | \$ (1,569) | \$ (267,259) | \$ (268,828) |
| Additions | (30,276) | (118,920) | (149,196) |
| Amortization | <u>19,814</u> | <u>338,440</u> | <u>358,254</u> |
| December 31, 2011 | (12,031) | (47,739) | (59,770) |
| Additions | (1,409,797) | (3,942,607) | (5,352,404) |
| Amortization | <u>940,438</u> | <u>2,986,987</u> | <u>3,927,425</u> |
| December 31, 2012 | <u>\$ (481,390)</u> | <u>\$ (1,003,359)</u> | <u>\$ (1,484,749)</u> |

During the years ended December 31, 2012 and 2011, the Company recorded note discount amortization to interest expense of \$3,927,425 and 358,254, respectively.

Deferred financing costs related to the Bridge Notes

The Company recorded deferred financing costs related to the issuance of the Bridge Notes totaling \$247,880 and \$53,250, respectively, during the years ended December 31, 2012 and 2011. Deferred financing costs are being amortized to interest expense over the term of the Bridge Notes using the effective interest method. The Company recorded interest expense related to the amortization of deferred financing costs for the years ended December 31, 2012 and 2011, totaling \$263,255 and \$39,958, respectively.

Mobivity Note

As partial consideration for the acquisition of Mobivity, the Company issued a secured subordinated promissory note in the principal amount of \$606,064.

The promissory note accrued interest at 6.25% per annum; was payable in six quarterly installments of \$105,526 (inclusive of interest) starting May 1, 2011; matured on August 1, 2012; was secured by the acquired assets of the Mobivity business; and was subordinated to the Company's obligations under its Bridge Notes discussed above.

Mobivity, LLC was granted a security interest in the acquired assets, subordinated only to the Company's Bridge Notes, and a majority of the Bridge Note holders consented to the junior security interest.

In May 2012, the Company paid late payment penalties through the issuance of 235,441 common shares valued at \$160,468 based on the closing market price on the date issued. The value of the common shares was expensed through share based compensation that is included in general and administrative expense in the consolidated statement of operations.

During the years ended December 31, 2012 and 2011, the Company made principal and interest payments totaling \$316,579 and \$316,579, respectively, on the promissory note. The promissory note and related interest is fully paid as of December 31, 2012.

Digimark, LLC Notes

As partial consideration for the acquisition of Boomtext in 2011, the Company issued a secured subordinated promissory note in the principal amount of \$175,000. The promissory note accrued interest at 6.25% per annum; was payable in full on May 25, 2012 (the original maturity March 31, 2012 was extended); was secured by all of the assets of Mobivity, Inc. and was subordinated to the Company's obligations under its Bridge Notes discussed above.

During the year ended December 31, 2012, the Company made principal payments of \$175,000 and interest payments of \$9,266 on the promissory note. The promissory note and related interest is fully paid as of December 31, 2012.

Also as partial consideration for the acquisition of Boomtext in 2011, the Company issued an unsecured subordinated promissory note in the principal amount of \$194,658. The promissory note does not bear interest; is payable in installments (varying in amount) from August 2011 through October 2012; and is subordinated to the Company's obligations under its Bridge Notes discussed above.

The \$194,658 unsecured subordinated promissory note did not bear interest. Accordingly, the Company recorded the promissory note at the present value of the payments over the subsequent periods which amounted to \$182,460. The Company used a discount rate of 6.25% in calculating the net present value of the unsecured promissory note. The discount rate was based on the Company's estimated cost of debt capital. Under the effective interest method, the Company accretes the debt discount to the face amount of the promissory note. Accretion of the debt discount for the years ended December 31, 2012 and 2011 totaled \$6,897 and \$5,301, respectively. Accretion of the debt discount was charged to interest expense in accordance with FASB ASC 480.

During the years ended December 31, 2012 and 2011, the Company made payments on the promissory note of \$86,048 and \$8,610, respectively. The outstanding balance on the promissory note at December 31, 2012 is \$100,000.

Summary of Notes Payable and Accrued Interest

The following table summarizes the Company's notes payable and accrued interest as of December 31, 2012 and 2011:

| | <u>Notes Payable</u> | | <u>Accrued Interest</u> | |
|--|----------------------|---------------------|-------------------------|-------------------|
| | <u>12/31/2012</u> | <u>12/31/2011</u> | <u>12/31/2012</u> | <u>12/31/2011</u> |
| Bridge notes, net, as discussed above | \$ 2,857,669 | \$ 1,002,730 | \$ 261,213 | \$ 95,823 |
| Convertible notes payable, net of discounts | <u>2,857,669</u> | <u>1,002,730</u> | <u>261,213</u> | <u>95,823</u> |
| Mobivity note, as discussed above | - | 310,135 | - | - |
| Unsecured (as amended) note payable due to our Company's former Chief Executive Officer, interest accrues at the rate of 9% compounded annually, all amounts due and payable December 31, 2008, See Note 12. Currently past due. | 20,000 | 20,000 | 13,775 | 10,871 |
| Note payable due to a trust, interest accrues at the rate of 10% per annum, all amounts due and payable December 31, 2006. Currently past due. | 51,984 | 51,984 | 24,297 | 19,084 |
| Digimark, LLC secured subordinated promissory note, as discussed above | - | 175,000 | - | 4,648 |
| Digimark, LLC subordinated promissory note, net, as discussed above. Currently past due. | 100,000 | 179,151 | 22,083 | - |
| Notes payable, net of discounts | <u>171,984</u> | <u>736,270</u> | <u>60,155</u> | <u>34,603</u> |
| Totals | <u>\$ 3,029,653</u> | <u>\$ 1,739,000</u> | <u>\$ 321,368</u> | <u>\$ 130,426</u> |

Cash Payment Obligation

As partial consideration for the acquisition of Txtstation in 2011, the Company agreed to \$250,000 of scheduled cash payments. The \$250,000 of scheduled cash payments was due as follows: \$25,000 payable on the 60th day following closing and the balance was payable in \$25,000 installments at the end of each of the next nine 30-day periods thereafter.

The \$250,000 cash payment obligation did not bear interest. Accordingly, the Company recorded the cash payment obligation at the present value of the payments over the subsequent periods which amounted to \$241,960. The Company used a discount rate of 6.25% in calculating the net present value of the cash payment obligation. The discount rate was based on the Company's estimated cost of debt capital. Under the effective interest method, the Company accretes the debt discount to the face amount of the promissory note. Accretion of the debt discount for the years ended December 31, 2012 and 2011 totaled \$786 and \$7,254, respectively. Accretion of the debt discount was charged to interest expense in accordance with FASB ASC 480.

During the years ended December 31, 2012 and 2011, the Company made payments totaling \$87,500 and \$162,500, respectively, on the cash payment obligation. The cash payment obligation was fully paid as of December 31, 2012.

Interest Expense

The following table summarizes interest expense for the years ended December 31, 2012 and 2011:

| | Years ended December 31, | |
|--|--------------------------|-------------------|
| | 2012 | 2011 |
| Amortization of note discounts | \$ 3,935,108 | \$ 370,810 |
| Amortization of deferred financing costs | 263,255 | 39,958 |
| Other interest expense | 361,201 | 133,447 |
| | <u>\$ 4,559,564</u> | <u>\$ 544,215</u> |

The Company paid interest in cash during the years ended December 31, 2012 and 2011 totaling \$33,385 and \$20,650, respectively.

7. Stockholders' Equity (Deficit)

Common Stock

The Company completed a private placement in September 2011. The private placement structure consisted of a series of identical subscription agreements for the sale of units comprised of shares of the Company's common stock at a price of \$1.50 per share and an equivalent number of four-year warrants at an exercise price of \$2.00. Pursuant to this private placement, the Company issued 688,669 shares of common stock at \$1.50 per share for cash and issued four-year warrants to purchase 688,669 shares of common stock at \$2.00 per share to several accredited investors raising gross proceeds of \$1,033,000. In October 2012, the exercise price of the warrants was reduced from \$2.00 per share to \$0.50 per share as a result of the price protection guarantee contained in the warrant agreement discussed below.

Both the common shares and the warrants contain anti-dilutive, or down round, price protection. The down round protection for the common shares terminates on the earlier of the date on which an effective registration statement is filed with the SEC covering the shares, or the shares become freely tradable pursuant to Rule 144 promulgated under the Securities Act of 1933. The down round protection for the common shares was extended to August 15, 2012, and terminated on that date. The down round protection for the warrant terminates when the warrant expires or is exercised. The Company determined that the values of the down round price protection for both the common shares and the warrants represent derivative liabilities. See Note 5 for further discussion of derivative liabilities.

In 2011, the Company issued 3,944,540 shares for the acquisition of: (i) Txtstation which was issued 2,425,000 shares of common stock at a price of \$3.04 per share with a common stock purchase price of \$7,372,000; (ii) Mobivity which was issued 1,000,000 shares of common stock at a price of \$3.12 per share with a common stock purchase price of \$3,120,000; and (iii) Boomtext was issued 259,770 shares of common stock (with a six month lock-up period) at a price of \$1.63 per share with a common stock purchase price of \$423,425 and an additional 259,770 shares of common stock (with a eighteen month lock-up period) at a price of \$1.55 per share with a common stock purchase price of \$402,644, which represents a total common stock purchase price of \$11,318,069. The shares were recorded at a price per share based on the fair market value on the date of acquisition. See Note 3 for a more detailed discussion regarding the total acquisition costs for the previously mentioned acquisitions.

In 2011, the Company acquired US Patent number 6788769 B1 for \$85,000, which consisted of a \$35,000 cash payment and the issuance of 14,286 shares of common stock at a price of \$3.50 per share with a common stock purchase price of \$50,000. The shares were valued at the fair market value on the date of grant.

In 2011, the Company issued 253,298 shares of common stock for various services which include: (i) an issuance of 13,298 shares of common stock at a price of \$1.88 with a common stock purchase price of \$25,000 for a registered broker-dealer to act as the Company's placement agent with respect of finding investors; (ii) an issuance of 200,000 shares of common stock at a price of \$1.75 with a common stock purchase price of \$350,000 for investor relations consulting services; and (iii) an issuance of 40,000 shares of common stock at a price of \$1.35 with a common stock purchase price of \$54,000 for additional investor relations consulting services. The shares were valued at the fair market value on the date of grant, and the total common stock purchase price was \$429,000.

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In 2011, five holders of the 10% Senior Secured Convertible Bridge Notes due November 2, 2011 agreed to convert their entire principal amount (\$210,000) and accrued interest (\$20,271) totaling \$230,271 into units. Each unit consists of one share of common stock of the Company and a four year warrant to purchase one share of common stock at \$2.00 per share. The conversion took place at a price of \$1.50 per unit. Accordingly, the Company issued an aggregate of 153,515 shares of common stock and 153,515 warrants. The conversion occurred within the terms of the convertible notes and no gain or loss was recorded.

In 2012, the Company issued 225,000 shares of common stock for consulting services which include: (i) an issuance of 150,000 shares of common stock at a price of \$1.22 per share with a common stock purchase price of \$183,000 for consulting services; and (ii) an issuance of 75,000 shares of common stock at a price of \$1.16 per share with a common stock purchase price of \$87,000 for investor relations consulting services. The shares were valued at the fair market value on the date of grant, and the total common stock purchase price was \$270,000.

In 2012, the Company issued 235,441 shares of common stock for late payment penalties which include: (i) an issuance of 86,812 shares of common stock at a price of \$0.65 per share valued at of \$56,428; and (ii) an issuance of 148,629 shares of common stock at a price of \$0.70 per share valued at \$104,040. The issuances were pursuant to the Mobivity Acquisition Agreement Amendment #1 to the Secured Subordinated Promissory Note and were due to the two defaults on the Mobivity Note payments. The shares were valued based on the closing stock price for the date granted, and constituted a late penalty payment to the note holder; not a principal or interest repayment. The total common stock purchase price for these two issuances was \$160,468, and was recorded as share based compensation included in general and administrative expense in the consolidated statement of operations.

In 2012, the Company issued 3,368 shares of common stock at a deemed value of \$0.40 per share realizing \$6,644 in additional security issuance derivative liability. These shares were consideration owed to one old Note holder for the additional securities due under the original 10% Senior Secured Convertible Bridge note, and additional shares issued under the terms of the allonge signed January 31, 2012 as consideration for the extension of the maturity date of the Note from February 2, 2012, to May 2, 2012. The share consideration was valued based on the Monte Carlo simulation for both the allonge granted in February 2012 plus the Monte Carlo simulation for the additional shares issuance derivative liability, in September 2012. For more details concerning the inputs and background of the derivatives please see Note 5.

As of December 31, 2012, the Company had 23,218,117 shares of common stock outstanding.

Stock-based Compensation

2010 Incentive Stock Option Plan

In December, 2010, the Company adopted the 2010 Incentive Stock Option Plan (“the 2010 Plan”), subject to shareholder approval within one year. Shareholder approval was not obtained within one year, therefore incentive stock options granted under the 2010 Plan converted to non-qualified stock options. The 2010 Plan permits the Company to grant up to 3,124,000 shares of common stock and options to purchase shares of common stock. The 2010 Plan is designed to retain directors, executives and selected employees and consultants and reward them for making major contributions to the success of the Company. These objectives are accomplished by making long-term incentive awards under the 2010 Plan thereby providing participants with a personal interest in the growth and performance of the Company.

The Company believes that such awards better align the interests of its employees with those of its shareholders. Option awards are generally granted with an exercise price that equals the fair market value of the Company’s stock at the date of grant. These option awards generally vest based on four years of continuous service and have five-year or 10-year contractual terms.

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A summary of option activity under the 2010 Plan from December 31, 2010 to December 31, 2012 is presented below:

| | Number Outstanding | Weighted - Average Exercise Price Per Share | Weighted - Average Remaining Contractual Life (Years) | Aggregate Intrinsic Value |
|---|-----------------------|--|---|---------------------------------|
| Outstanding at December 31, 2010 | 1,015,000 | \$ 0.32 | 4.73 | |
| Granted | 645,000 | \$ 1.50 | 7.35 | |
| Exercised | - | \$ - | - | |
| Canceled/forfeited/expired | (50,000) | \$ 1.60 | 4.04 | |
| Outstanding at December 31, 2011 | 1,610,000 | \$ 0.82 | 5.12 | \$ 1,240,000 |
| Granted | 682,500 | \$ 0.56 | 4.53 | |
| Exercised | - | \$ - | - | |
| Canceled/forfeited/expired | (337,500) | \$ 0.58 | 3.15 | |
| Outstanding at December 31, 2012 | <u>1,955,000</u> | \$ 0.77 | 4.44 | \$ - |
| Options vested and exercisable at December 31, 2012 | <u>556,452</u> | \$ 0.77 | 4.06 | \$ - |
| Unrecognized expense at December 31, 2012 | <u>\$ 768,502</u> | | | |

The aggregate intrinsic value in the table above represents the total intrinsic value (the difference between the Company's closing price at fiscal year-end and the exercise price, multiplied by the number of in-the-money options) that would have been received by the option holders had all option holders exercised their options on the date indicated.

The total number of shares vested and the fair value of shares vested for the years ended December 31, 2012 and 2011, respectively, was:

| | Number of Options Vested | Fair Value of Options Vested |
|--|--------------------------------|------------------------------------|
| Fair value of options vested during the year ended December 31, 2012 | 368,952 | \$ 195,366 |
| Fair value of options vested during the year ended December 31, 2011 | 253,750 | \$ 36,113 |

The following table summarizes information concerning options outstanding at December 31, 2012:

| Awards Breakdown by Range as at December 31, 2012 | | | | | | |
|---|---------------------------|---|---|----------------------|--|-------------------------------------|
| Exercise Price | Outstanding | | | Vested | | |
| | Outstanding Stock Options | Weighted Average Remaining Contractual Life | Weighted Average Outstanding Exercise Price | Vested Stock Options | Weighted Average Remaining Vested Contractual Life | Weighted Average Vested Stock Price |
| \$ 0.32 to \$0.69 | 1,410,000 | 3.71 | \$ 0.43 | 374,997 | 2.98 | \$ 0.32 |
| \$ 1.16 to \$1.80 | 545,000 | 6.33 | \$ 1.66 | 181,455 | 6.30 | \$ 1.69 |

The following table summarizes information concerning options outstanding at December 31, 2011:

| Awards Breakdown by Range as at December 31, 2011 | | | | | | |
|---|---------------------------|---|---|----------------------|--|-------------------------------------|
| Exercise Price | Outstanding | | | Vested | | |
| | Outstanding Stock Options | Weighted Average Remaining Contractual Life | Weighted Average Outstanding Exercise Price | Vested Stock Options | Weighted Average Remaining Vested Contractual Life | Weighted Average Vested Stock Price |
| \$ 0.32 | 1,015,000 | 3.98 | \$ 0.32 | 253,750 | 3.98 | \$ 0.32 |
| \$ 1.30 to \$1.80 | 595,000 | 7.08 | \$ 1.68 | - | - | \$ - |

The Company measures and recognizes compensation expense for all stock-based payment awards made to employees and directors based upon estimated fair values. During the years ended December 31, 2012 and 2011, the Company recorded stock-based compensation in operating expenses for employees and directors totaling \$391,410 and \$416,012, respectively.

The Company vesting term for employees is generally a 4 year term and vest as follows; the first installment equaling 25% of the grant, shall become exercisable on the first anniversary of the date of the Option, and additional installments shall become exercisable monthly at the rate of 1/36 of the 75% grant balance over the ensuing 36 months. During the year ended December 31, 2012, the Company recorded \$304,526 of employee stock based compensation and expects to expense approximately \$678,000 of additional employee stock based compensation over the next 2 years.

The Company vesting term for directors is a 3 year term and vest as follows; in (3) equal annual installments of 33 1/3% of the Shares covered by this Option, the first installment to be exercisable on the first anniversary of the date of the Option, with an additional 33 1/3% of such Shares becoming exercisable on each of the 2 successive anniversary dates. During the year ended December 31, 2012, the Company recorded \$86,883 of director stock based compensation and expects to expense approximately \$91,000 of additional director stock based compensation over the next 2 years.

Valuation Assumptions

The Company uses the Black-Scholes option pricing model in determining its option expense. The weighted-average estimated fair value of the employee stock options granted during the years ended December 31, 2012 and 2011 was \$0.27 per share and \$0.84 per share, respectively. The ranges of assumptions used during the years ended December 31, 2012 and 2011 are as follows:

| | Stock Option Assumptions for the years ended December 31, | |
|-------------------------|--|----------------|
| | 2012 | 2011 |
| Expected volatility | 61.0% to 73.4% | 60.0% to 65.0% |
| Risk-free interest rate | 0.39% to 0.57% | 0.62% to 2.31% |
| Forfeiture rate | 0.0% | 0.0% |
| Expected dividend rate | 0.0% | 0.0% |
| Expected life(years) | 2.86 to 3.58 | 3.00 to 6.00 |

The expected volatility is based on the weighted average of the historical volatility of publicly traded surrogates in the Company's peer group.

The risk-free interest rate assumption is based upon published interest rates appropriate for the expected life of the Company's employee stock options.

The dividend yield assumption is based on the Company's history of not paying dividends and no future expectations of dividend payouts.

The expected life of the stock options represents the weighted-average period that the stock options are expected to remain outstanding and was determined based on historical experience of similar awards, giving consideration to the contractual terms of the stock-based awards, vesting schedules and expectations of future employee behavior as influenced by changes to the terms of its stock-based awards.

The following table summarizes weighted average grant date fair value activity:

| | Weighted Average Grant Date Fair Value | |
|---|---|---------|
| | 2012 | 2011 |
| Stock options granted during the year ended December 31, | \$ 0.27 | \$ 0.84 |
| Stock options vested during the year ended December 31, | \$ 0.53 | \$ 0.14 |
| Stock options canceled/forfeited/expired during the year ended December 31, | \$ 0.26 | \$ 1.78 |

Warrants issued to non-employees

In December 2010, the Company issued 700,000 warrants for consulting services. The warrants vest over a 4 year term and vest as follows: the first installment equaling 25% of the grant is exercisable on the first anniversary of the date of the warrant; and additional installments are exercisable monthly at the rate of 1/36 of the 75% grant balance over the ensuing 36 months.

In January 2011, the Company issued 200,000 warrants for consulting services. The warrants vest over a 4 year term and vest as follows: the first installment equaling 25% of the grant is exercisable on the first anniversary of the date of the warrant; and additional installments shall become exercisable monthly at the rate of 1/36 of the 75% grant balance over the ensuing 36 months.

In July 2011, the Company issued 5,000 warrants for consulting services. The warrants vest over a 4 year term and vest as follows: the first installment equaling 25% of the grant is exercisable on the first anniversary of the date of the warrant; and additional installments are exercisable monthly at the rate of 1/36 of the 75% grant balance over the ensuing 36 months.

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In February 2012, the Company issued 25,000 warrants for consulting services. The warrants vest over twelve months beginning on the first monthly anniversary of the grant. The Company terminated the services of said consultant during the year ended December 31, 2012 and the warrants were canceled in accordance with the warrant agreement.

As of December 31, 2012, vested warrants totaled 623,014 pursuant to the three non-employee warrant agreements.

The warrants issued to non-employees are accounted for as derivative liabilities pursuant to the authoritative guidance for equity based payments to non-employees. The warrants were valued using a Monte Carlo Simulation. See Note 5 for assumptions used in the Monte Carlo simulation.

The fair values of the warrants are estimated at the vesting date and are revalued at each subsequent reporting date. At December 31, 2012, the Company recorded derivative liabilities for the non-employee warrants totaling \$95,041. The change in fair value of the derivative liabilities for the year ended December 31, 2012 was a gain of \$117,477, which was recorded in change in fair value of derivative liabilities in the consolidated statements of operations.

A summary of non-employee warrant activity during the years ended December 31, 2012 and 2011 is presented below:

| | Number Outstanding | Weighted - Average Exercise Price Per Share | Weighted - Average Remaining Contractual Life (Years) |
|--|-----------------------|--|---|
| Outstanding at December 31, 2010 | 793,750 | \$ 0.32 | 4.73 |
| Granted | 205,000 | \$ 1.50 | 7.35 |
| Exercised | - | \$ - | - |
| Canceled/forfeited/expired | (93,750) | \$ 1.60 | 4.04 |
| Outstanding at December 31, 2011 | 905,000 | \$ 0.33 | 5.12 |
| Granted | 25,000 | \$ 1.16 | 4.09 |
| Exercised | - | \$ - | - |
| Canceled/forfeited/expired | (25,000) | \$ 1.16 | 4.09 |
| Outstanding at December 31, 2012 | 905,000 | \$ 0.33 | 4.10 |
| Warrants vested and exercisable at December 31, 2012 | 623,014 | \$ 0.33 | 3.76 |

The following table summarizes information concerning warrants outstanding at December 31, 2012:

| Exercise Price | Outstanding | | | Vested | | |
|----------------|----------------------|---|---|-----------------|--|-------------------------------------|
| | Outstanding Warrants | Weighted Average Remaining Contractual Life | Weighted Average Outstanding Exercise Price | Vested Warrants | Weighted Average Remaining Vested Contractual Life | Weighted Average Vested Stock Price |
| \$ 0.32 | 900,000 | 4.10 | \$ 0.32 | 620,827 | 3.76 | \$ 0.32 |
| \$ 1.75 | 5,000 | 3.52 | \$ 1.75 | 2,187 | 3.52 | \$ 1.75 |

The following table summarizes information concerning warrants outstanding at December 31, 2011:

| Awards Breakdown by Range as at December 31, 2011 | | | | | | |
|---|----------------------|---|---|-----------------|--|-------------------------------------|
| Exercise Price | Outstanding | | | Vested | | |
| | Outstanding Warrants | Weighted Average Remaining Contractual Life | Weighted Average Outstanding Exercise Price | Vested Warrants | Weighted Average Remaining Vested Contractual Life | Weighted Average Vested Stock Price |
| \$ 0.32 | 900,000 | 5.11 | \$ 0.32 | 349,997 | 3.98 | \$ 0.32 |
| \$ 1.75 | 5,000 | 4.52 | \$ 1.75 | - | - | - |

Warrants issued to note holders

As discussed in Note 6 under Bridge Financing, the Company is obligated to issue warrants or shares pursuant to its Bridge Notes. The number of warrants / shares issuable pursuant to the agreements is not known as of December 31, 2012.

During the year ended December 31, 2011, the Company issued warrants for the purchase of 688,669 shares of common stock at \$2.00 per share in connection with its private placement discussed above under Common Stock. The warrants are exercisable for four years from the date of issuance, and contain anti-dilution, or down round, price protection as long as the warrant remains outstanding. In addition, the Company issued warrants for the purchase of 153,515 shares of common stock at \$2.00 per share in connection with the conversion of its outstanding Bridge Notes with a principal amount of \$210,000 discussed above in Note 6 under Bridge Financing. The warrants are exercisable for four years from the date of issuance. In October 2012, the exercise price of the warrants was reduced from \$2.00 per share to \$0.50 per share as a result of the price protection guarantee contained in the warrant agreement.

The number of warrants issued to these note holders remains unchanged at December 31, 2012. The estimated fair value of these warrants is included in the “Common Stock and Warrants” derivative value (see Note 5) as of December 31, 2012 and 2011.

8. Income Taxes

For the years ended December 30, 2012 and 2011 the provisions for income taxes were as follows:

| | 2012 | 2011 |
|-------------------|------|----------|
| Federal – current | \$ - | \$ - |
| State – current | - | 3,000 |
| Total | \$ - | \$ 3,000 |

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Under ASC 740, deferred income tax assets and liabilities reflect the net tax effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes.

Significant components of our net deferred tax assets and liabilities as of December 30, 2012 and 2011 are as follows:

| | <u>2012</u> | <u>2011</u> |
|---|---------------------|--------------------|
| Deferred tax assets (liabilities): | | |
| Net operating loss carryforwards | \$ 4,681,000 | \$ 3,814,000 |
| Deferred revenue | - | 16,000 |
| Stock based compensation | 940,000 | 613,000 |
| Accrued compensation | 70,000 | 48,000 |
| | <u>634,000</u> | <u>600,000</u> |
| Depreciation and amortization | 4,816,000 | 4,691,000 |
| Other | 12,000 | 9,000 |
| Total deferred tax assets | <u>11,153,000</u> | <u>9,791,000</u> |
| Valuation allowance for net deferred tax assets | <u>(11,153,000)</u> | <u>(9,791,000)</u> |
| Total | <u>\$ -</u> | <u>\$ -</u> |

The Company has provided a valuation allowance against deferred tax assets recorded as of December 31, 2012 and 2011 due to uncertainties regarding the realization of such assets.

The net change in the total valuation allowance for the year ended December 31, 2012 was an increase of approximately \$1,362,000. The net change in the total valuation allowance for the year ended December 31, 2011 was an increase of approximately \$6,714,000. In assessing the possible realization of deferred tax assets, the Company considers whether it is more likely than not that some portion or all of the deferred tax assets will not be realized. The ultimate realization of deferred tax assets is dependent upon the generation of future taxable income during periods in which those temporary differences become deductible. The Company considers projected future taxable income and planning strategies in making this assessment. Based on the level of historical operating results and projections for the taxable income for the future, the Company has determined that it is more likely than not that the deferred tax assets will not be realized. Accordingly, the Company has recorded a valuation allowance to reduce deferred tax assets to zero. There can be no assurance that the Company will ever be able to realize the benefit of some or all of the federal and state loss carryforwards, either due to ongoing operating losses or due to ownership changes, which limit the usefulness of the loss carryforwards.

As of December 31, 2012, the Company has available net operating loss carryforwards of approximately \$14,700,000 for federal income tax purposes, which will start to expire in 2026. The net operating loss carryforwards for state purposes are approximately \$14,700,000 and will start to expire in 2016.

The difference between the provision for income taxes and income taxes computed using the U.S. federal income tax rate for the years ended December 31, 2012 and 2011 was as follows:

| | <u>2012</u> | <u>2011</u> |
|-------------------------------------|------------------|------------------|
| Computed expected tax expense | \$ (2,495,000) | \$ (5,885,000) |
| State taxes, net of federal benefit | (155,000) | (1,006,000) |
| Other | 1,288,000 | 180,000 |
| Change in valuation allowance | <u>1,362,000</u> | <u>6,714,000</u> |
| | <u>\$ -</u> | <u>\$ 3,000</u> |

The Company has determined that during 2010 it experienced a "change of ownership" as defined by Section 382 of the Internal Revenue Code. As such, utilization of net operating loss carryforwards and credits generated before the 2010 change in ownership will be limited to approximately \$207,000 per year until such carryforwards are fully utilized. The pre change net operating loss carryforward was approximately \$7,000,000.

The Company files income tax returns in the U.S. federal jurisdiction and California. Because the Company is carrying forward federal and state net operating losses from 2006, the Company is subject to U.S. federal and state income tax examinations by tax authorities for all years since 2006. The Company does not have a liability for any uncertain tax positions. As of December 31, 2012, no accrued interest or penalties are recorded in the financial statements.

9. Fair Value Measurements

Fair value is defined as an exit price, representing the amount that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants. As such, fair value is a market-based measurement that should be determined based on assumptions that market participants would use in pricing an asset or liability. As a basis for considering such assumptions, the authoritative guidance establishes a three-tier value hierarchy, which prioritizes the inputs used in measuring fair value as follows: (Level 1) observable inputs such as quoted prices in active markets; (Level 2) inputs other than the quoted prices in active markets that are observable either directly or indirectly; and (Level 3) unobservable inputs in which there is little or no market data, which require the Company to develop its own assumptions. This hierarchy requires companies to use observable market data, when available, and to minimize the use of unobservable inputs when determining fair value. On a recurring basis, the Company measures certain financial assets and liabilities at fair value, including its derivative liabilities.

At December 31, 2012, the Company recorded a derivative liability related to the variable maturity feature and the future issuance of warrants / shares in connection with its Bridge Notes (See Note 5), and the common stock and warrants issued in 2011 (See Note 7 under Common Stock) at the aggregate fair market value of \$3,074,504 utilizing unobservable inputs. The change in fair market value of these liabilities is included in other income (expense) in the consolidated statements of operations. The assumptions used in the Monte-Carlo simulation used to value the derivative liabilities involve expected volatility in the Company's common stock, estimated probabilities related to the occurrence of a future financing, and interest rates. As all the assumptions employed to measure this liability are based on management's judgment using internal and external data, this fair value determination is classified in Level 3 of the valuation hierarchy.

See Note 5 for a table that provides a reconciliation of the beginning and ending balances of the derivative liabilities as of December 31, 2012.

10. Commitments and Contingencies

Earn-Out Contingency

The Company has an earn-out commitment associated with the acquisition of Boomtext from Digimark, LLC. An earn-out payment (payable 20 months after closing of the transaction) of a number of shares of common stock of the Company equal to (a) 1.5, multiplied by the Company's net revenue from acquired customers and customer prospects for the twelve-month period beginning six months after the closing date, divided by (b) the average of the volume-weighted average trading prices of the Company's common stock for the 25 trading days immediately preceding the earn-out payment (subject to a collar of \$1.49 and \$2.01 per share).

As of December 31, 2012 and 2011, the estimated dollar value of the earn-out payable was \$2,032,881, and \$2,658,238, respectively. As of December 31, 2012, the earn-out payable was recorded as a current liability and as of December 31, 2011, the earn-out payable was recorded as a non-current liability on the consolidated balance sheet.

For the years ended December 31, 2012 and 2011, the Company recorded a gain related to the change in the estimated dollar value of the earn-out payable during the year of \$625,357 and \$999,347, respectively, which are recorded in other income/(expense) in the consolidated statement of operations.

Litigation

In September 2012, the Company initiated litigation against a former client (the “Defendant”) for failure to pay the Company’s invoices for services rendered under its Master License and Services Agreement. The complaint was filed in Superior Court of California, San Diego County. The litigation seeks to recover \$67,795 in services and interest penalties. As of March 31, 2013 the Company is in negotiation with the Defendant's counsel to settle the debt.

Operating Lease and Lease Exit Obligation

The Company has a lease agreement for 6,730 square feet, as amended, for its office facilities in Chandler Arizona through December 2015. Monthly rental payments, excluding common area maintenance charges, are \$11,557 in 2013, \$11,958 in 2014 and \$12,357 in 2015.

The minimum lease payments required over the next five years is shown below.

Minimum Lease Payments

| Minimum Lease Payments | |
|------------------------|-------------------|
| 2013 | \$ 138,678 |
| 2014 | 143,492 |
| 2015 | 148,281 |
| 2016 | - |
| 2017 | - |
| Thereafter | - |
| | <u>\$ 430,451</u> |

The Company had a lease agreement for its office facilities in San Diego, California through September 2012. Upon signing a lease agreement for the facility in Chandler, the Company determined it no longer needed the San Diego facility. The property was vacated in November 2011 and returned to the owner. As of December 31, 2012, the Company has a Lease Exit Obligation totaling \$44,615 for the period December 2011 through September 2012, made up of, \$38,088 in remaining rent obligation, \$6,527 in remaining deferred rent. The Company expects no further charges in relation to this lease exit obligation, aside from actual common area maintenance charges reconciled against the estimate.

Rent expense for both the San Diego, California, and Chandler, Arizona facilities (including related common area maintenance charges and lease abandonment charges) was \$179,179 and \$144,703 for the years ended December 31, 2012 and 2011.

Letter of Intent

In November 2012, the Company entered into a non-binding Letter of Intent to acquire the assets of Sequence, LLC (the “Seller”) related to a mobile customer loyalty application. The acquired assets will include, but not be limited to, all application software, URL’s, websites, trademarks, brands, customers and customer lists. The Company would assume no liabilities of the Seller.

The Company will pay to Seller at closing, \$300,000 in cash in satisfaction of identified liabilities of Seller, with priority to back employee taxes, trust funds, penalties and interest. Other disbursements would be made at the Seller’s discretion. Seller would also receive at closing 750,000 shares of the Company’s common stock.

An earn-out payment consisting of 10% of the eligible revenue would be made within 45 days following the close of each calendar month subsequent to closing for a period of 24 months.

The original Letter of Intent was to expire January 15, 2013. On January 9, 2013 an amendment was drafted to extend the expiration date to March 15, 2013. See Note 13.

11. Employee Benefit Plan

The Company has an employee savings plan (the “Plan”) pursuant to Section 401(k) of the Internal Revenue Code (the “Code”), covering all of its employees. Participants in the Plan may contribute a percentage of compensation, but not in excess of the maximum allowed under the Code. The Company may make contributions at the discretion of its Board of Directors. During the years ended December 31, 2012 and 2011, the Company made no contributions to the Plan.

12. Related Party Transactions

Prior to the reverse merger on November 2, 2010, Optimal Payments Corporation converted \$570,534 of debt into \$370,534 worth of Mobivity Inc. common stock and \$200,000 of prepaid services to be rendered by Mobivity. These services remain owed to Optimal Payments Corporation at December 31, 2011. A member of the Company's Board of Directors is currently President of Sterling Card Solutions, which has a minority ownership position in Optimal Payments Corporation. During the year ended December 31, 2012, the Company began work on two projects for Optimal Payments Corporation and recognized revenue of \$164,738.

13. Subsequent Events

In January 2013, the Company made a payment of \$25,000 to a holder of a Bridge Note. Of this amount, \$21,040 was allocated to the outstanding principal, and \$3,960 was allocated to accrued interest. The remaining principal balance owed to this individual is \$36,658 and this principal amount remains past due at this time.

In January 2013, an amendment was executed to the Letter of Intent to acquire the assets of Sequence, LLC, extending the expiration date to March 15, 2013. As of the date of this report, the Letter of Intent has expired, but the parties to the Letter of Intent are moving forward with the acquisition transaction.

In January 2013, the Board of Directors approved the issuance of up to \$500,000 in additional 10% Senior Secured Bridge Notes to be issued in conjunction with the expected closing of the acquisition of the assets of Sequence, LLC. As of the date of this report, the Company issued \$200,000 in additional 10% Senior Secured Bridge Notes that are due April 15, 2013, and contain the same rights and privileges as the new Bridge Notes discussed in Note 6.

As of the date of this report, the acquisition transaction is not complete and the 750,000 shares of the Company's common stock have not been issued.

Item 9. Changes in and Disagreements With Accountants on Accounting and Financial Disclosure

None

Item 9A. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

Disclosure controls and procedures are controls and other procedures that are designed to ensure that information required to be disclosed in our reports filed or submitted under the Securities Exchange Act of 1934 (the “Exchange Act”) is recorded, processed, summarized and reported, within the time periods specified in the Securities and Exchange Commission's rules and forms. Disclosure controls and procedures include controls and procedures designed to ensure that information required to be disclosed in our reports filed or submitted under the Exchange Act is accumulated and communicated to management to allow timely decisions regarding required disclosure.

As required by paragraph (b) of Rules 13a-15 or 15d-15 under the Exchange Act, our management, with the participation of our president (our principal executive officer) and our chief financial officer (our principal financial officer and principal accounting officer) evaluated the effectiveness of our disclosure controls and procedures as of the end of the period covered by this annual report, being December 31, 2012.

Based on this evaluation, these officers concluded that, as of December 31, 2012 these disclosure controls and procedures were not effective to ensure that the information required to be disclosed by our company in reports it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the rules and forms of the Securities Exchange Commission. The conclusion that our disclosure controls and procedures were not effective was due to the presence of material weaknesses in internal control over financial reporting as identified below under the heading “Management’s Report on Internal Control over Financial Reporting.” Management anticipates that such disclosure controls and procedures will not be effective until the material weaknesses are remediated.

Because of the inherent limitations in all control systems, no evaluation of controls can provide absolute assurance that all control issues, if any, within our company have been detected. These inherent limitations include the realities that judgments in decision-making can be faulty and that breakdowns can occur because of simple error or mistake.

Management’s Report on Internal Control over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting. The term “internal control over financial reporting” is defined as a process designed by, or under the supervision of, an issuer’s principal executive and principal financial officers, or persons performing similar functions, and effected by the issuer’s board of directors, management and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles and includes those policies and procedures that:

- (1) pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the issuer; and
- (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the issuer are being made only in accordance with authorizations of management and directors of the issuer.

Under the supervision of our president, being our principal executive officer, and our chief financial officer, being our principal financial officer and principal accounting officer, we conducted an evaluation of the effectiveness of our internal control over financial reporting as of December 31, 2012 using the criteria established in Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). This evaluation included review of the documentation of controls, evaluation of the design effectiveness of controls, testing of the operating effectiveness of controls and a conclusion on this evaluation. Based on this evaluation, our management concluded our internal control over financial reporting was not effective as at December 31, 2012.

A material weakness is a deficiency, or combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of our company’s annual or interim financial statements will not be prevented or detected on a timely basis. In its assessment of the effectiveness of our internal control over financial reporting as of December 31, 2012, we determined that there were control deficiencies that constituted material weaknesses which are indicative of many small companies with small staff, such as:

- (1) Inadequate segregation of duties and effective risk assessment;
- (2) Insufficient written policies and procedures for accounting and financial reporting with respect to the requirements and application of both generally accepted accounting principles in the United States and guidelines of the SEC; and
- (3) Inadequate closing processes to ensure all material misstatements are corrected in the financial statements, as evidenced by the fact that there were audit adjustments.

These control deficiencies resulted in a reasonable possibility that a material misstatement of the annual or interim financial statements could not have been prevented or detected on a timely basis. As a result of the material weaknesses described above, we concluded that we did not maintain effective internal control over financial reporting as of December 31, 2012, based on criteria established in *Internal Control—Integrated Framework* issued by COSO. Our management continues to evaluate remediation plans for the above deficiencies. We plan to take steps to enhance and improve the design of our internal control over financial reporting.

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This annual report does not include an attestation report of our registered public accounting firm regarding internal control over financial reporting. Management's report is not subject to attestation by our registered, public accounting firm pursuant to the rules of the Securities and Exchange Commission that permit us to provide only management's report in this annual report.

Changes in Internal Control

There was no change in our internal control over financial reporting, as defined in Rules 13a-15(f) under the Exchange Act, that occurred during the fiscal quarter ended December 31, 2012 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

Item 9B. Other Information

None.

PART III

Item 10. Directors and Executive Officers

Directors and Executive Officers

The following table sets forth information concerning our executive officers and directors, including their ages, as of March 15, 2013:

| Name | Age | Position |
|------------------|------------|--------------------------------------|
| Dennis Becker | 39 | Chief Executive Officer and Director |
| Timothy Schatz | 42 | Chief Financial Officer |
| Ronald Linares | 50 | Director |
| David Souaid | 39 | Director |
| Randall Smith | 55 | Director |
| David Jaques | 57 | Director |
| H. Fraser Clarke | 37 | Director |
| Doug Schneider | 50 | Director |
| John Harris | 64 | Director |

Dennis Becker - President and Chief Executive Officer

Dennis Becker was appointed our Chief Executive Officer and a Director effective as of our acquisition of Mobivity, Inc. in November 2010. Mr. Becker has also served as President and Chief Executive Officer of Mobivity, Inc. since September, 2007. He was a founder of Frontieric Corporation, a pioneer in providing complex call routing and merchant processing applications, where he was Chief Executive Officer from 2002 to 2005. Mr. Becker was also Chief Executive Officer of Bexel Technologies, which served solutions to large enterprise, from 1999 to 2001. Mr. Becker studied Computer Science at the University of Oregon and served in the United States Air Force.

Mr. Becker has extensive knowledge of the mobile message marketing industry. As a result of these and other professional qualifications, we have concluded that Mr. Becker is qualified to serve as a director.

Timothy Schatz – Chief Financial Officer

Since January 2010, Mr. Schatz has been the Director of Finance and subsequently Vice President of Finance for Mobivity Holdings Corp. Mr. Schatz was appointed CFO on February 1, 2012. From 2008 to 2009, Mr. Schatz functioned as Corporate Accounting Manager for Locallife USA, a San Diego startup involved with local internet search engine technology and local small business marketing strategies. Until 2008, Mr. Schatz spent 13 years with Enterprise Rent-A-Car, with the final 6 years as Regional Business Manager / Controller of the Inland Empire Los Angeles region, encompassing 40 locations and over 300 employees. Mr. Schatz graduated with a Bachelor of Science in Accountancy from San Diego State University.

Ronald Linares, Director

Dr. Linares was appointed to our board of directors in June 2012. Dr. Linares has served as President and Chief Executive Officer of Riverstone Sanctuary, Inc., a provider of services to the residential home sector, since October 2012. From April 2000 to October 2012 Dr. Linares served as the Chief Financial Officer of OmniComm Systems, Inc., a provider of Web-based electronic data capture and eClinical software and services that streamline the clinical research process. Dr. Linares received a B.S. from the University of Florida, a Masters in Public Accountancy from Barry University and a Doctorate in Business Administration from Nova Southeastern University.

Mr. Linares has extensive knowledge of accounting and management. As a result of these and other professional qualifications, we have concluded that Mr. Linares is qualified to serve as a director.

David Souaid, Director

David Souaid was elected as one of our directors in November 2010. He is currently the President of SterlingCard Payment Solutions, a position he has held since 2008, and was previously the Senior Vice President, Sales and Marketing of Optimal Payments Inc., a credit card processing company, since 1999. He has also been a director of Sterling Payment Solutions and Mercantile Advance Corp. since 2008 respectively. He holds a B.A. in Political Science from Mount Allison University.

Mr. Souaid has extensive knowledge of corporate management. As a result of these and other professional qualifications, we have concluded that Mr. Souaid is qualified to serve as a director.

Randall Smith, Director

Randall Smith was elected as a director in June 2012. Mr. Smith has been an executive officer and member of the Board of Directors of OmniComm Systems, Inc. since 1997, serving as its President and Chief Technology Officer from May 1997 until August 2000 and thereafter as its Chief Technology Officer. From December 1995 to May 1997, Mr. Smith was Director of Operations for Global Communications Group. Mr. Smith received a B.S. from Purdue University.

Mr. Smith has extensive knowledge of corporate management. As a result of these and other professional qualifications, we have concluded that Mr. Smith is qualified to serve as a director.

David Jaques, Director

David Jaques has served as a director since December 2011. Mr. Jaques has held senior financial positions in banking, corporate and venture capital. In his early career, he held various positions with Barclays Bank in London and provided advisory services in currency and interest rate risk management to the bank's corporate clients. He held a similar role at Barclays Bank, New York from 1988 to 1993. He was Senior Vice President and Treasurer of Silicon Valley Bank between 1994 and 1999; founding CFO for PayPal from 1999 to 2001 and CFO of BlueRun Ventures from 2001 to 2008. Since 2008 he has provided CFO consulting services with Greenough Consulting Group and holds a board position at UBL Interactive, Inc. ([UBL.PK](#)).

Mr. Jaques has extensive knowledge of finance and accounting. As a result of these and other professional qualifications, we have concluded that Mr. Jaques is qualified to serve as a director.

H. Fraser Clarke, Director

Herbert Fraser Clarke was elected as one of our directors in November 2010. He has been the President and Chief Operating Officer of Herbal Magic, a Toronto based weight loss company, since 2009. From 2008 to 2009 he was Chief Financial Officer of NLRC, a Newfoundland based oil and gas refinery. From 2005 to 2008, he was the Chief Executive Officer of the Hair Club, a hair restoration company. Mr. Clarke holds a business degree from Memorial University. He is a chartered accountant and a chartered financial analyst. He currently serves on a number of boards including Europe's largest provider of hair loss solutions, a United States based mobile marketing company and a Canadian mid marketing leasing firm.

Mr. Clarke has extensive knowledge of corporate management. As a result of these and other professional qualifications, we have concluded that Mr. Clarke is qualified to serve as a director.

Doug Schneider, Director

Mr. Schneider has been a director since December 2010. Mr. Schneider has a twenty year track record of leadership and success in launching, building, and managing high-tech service oriented companies. He has served as Executive Vice President of the SMB Solutions for the Melbourne IT Group since July 2012 and oversees a \$75MM per year hosting and domain registration business across North American and Asia Pacific. From 2011 to 2012, Mr. Schneider served as CEO for Transaction Wireless, a venture backed technology company where he still resides on the board. From 2007 to 2010, Mr. Schneider was the CEO of Genea Energy, a clean tech company that provides an innovative and comprehensive SaaS based energy services platform for commercial office building portfolios. Mr. Schneider received a Bachelor's degree in Mechanical Engineering from University of California, Davis and an M.B.A. from the Kellogg School of Management at Northwestern University. He also serves as an industry advisor to Pelion Venture Partners, a venture capital firm focused on the information technology sector.

Mr. Schneider has extensive knowledge of corporate management. As a result of these and other professional qualifications, we have concluded that Mr. Schneider is qualified to serve as a director.

John Harris, Director

Mr. Harris has been a director since January 2011. Mr. Harris has served as an operating partner with GlendonTodd Capital, a Dallas based private equity firm since February 2011. From 2010 to 2012 Mr. Harris was CEO and investor with Chemical Information Services, a leading provider of database services to the chemical and pharmaceutical industries. From 2006 to 2009, Mr. Harris was President and CEO of eTelecare Global Solutions; a business process outsourcing ("BPO") company delivering technical support, sales, and customer care services to the Fortune 1000 market. In that capacity, he successfully led the company's IPO, privatization and ultimate merger in 2009 that created a \$1 billion BPO services company. Mr. Harris graduated from the University of West Georgia with a BBA and MBA and is on the Board of Advisors to the Richardson School of Business. He has held board positions with a number of public and private telecommunications and technology services companies, and he currently sits on the boards of Premier Global Services, The Hackett Group, DG FastChannel and BancTec Corporation. He is a member of the compensation committee of the board of each of these companies and sits on the audit committee of the board of DG FastChannel.

Mr. Harris has extensive knowledge of corporate management. As a result of these and other professional qualifications, we have concluded that Mr. Harris is qualified to serve as a director.

Section 16(a) Beneficial Ownership Reporting Compliance

Section 16(a) of the Securities Exchange Act of 1934, as amended, or the Exchange Act, requires our directors and executive officers, and persons who beneficially own more than ten percent of a registered class of our equity securities, to file with the SEC initial reports of ownership and reports of changes of ownership of common stock and our other equity securities. Officers, directors and greater than ten percent stockholders are required by SEC regulation to furnish us with copies of all Section 16(a) forms they file.

To our knowledge, based solely on a review of the copies of such reports furnished to us and written representations that no other reports were required, during the fiscal year ended December 31, 2012, our officers, directors and greater than ten percent beneficial owners complied with all Section 16(a) filing requirements applicable to them.

Additional Information about our Board and its Committees

All of our director nominees except Mr. Becker are considered by our board of directors to be "independent" as defined in Rule 5605 of the NASDAQ Marketplace Rules.

Audit Committee

During the year ended December 31, 2012, our audit committee was comprised of David Jaques and Ronald Linares. Mr. Linares serves as the audit committee chair. All members of our audit committee are independent, as independence for audit committee members is defined in Rule 5605 of the NASDAQ Marketplace Rules.

Committee Interlocks and Insider Participation

During the year ended December 31, 2012, our compensation committee was comprised of Randall Smith and John Harris. None of our executive officers serve on the board of directors of another entity, whose executive officers serves on our board of directors.

Code of Ethics

We have adopted a code of ethics for all our employees, including our chief executive officer, principal financial officer and principal accounting officer or controller, and/or persons performing similar functions, which is available on our website, under the link entitled “Code of Ethics”.

Item 11. Executive Compensation

The following table provides information regarding the compensation earned during the years ended December 31, 2012 and 2011 by our (i) Chairman and Chief Executive Officer, and (ii) Chief Financial Officer. We refer to these two individuals collectively as our “named executive officers”.

Summary Compensation Table*

| Name and Principal Position | Year | Salary | Bonus | Option Awards | Total |
|------------------------------------|------|------------|-----------|---------------|------------|
| Dennis Becker, CEO ⁽¹⁾ | 2012 | \$ 228,906 | \$ 60,000 | \$ 191,342 | \$ 480,248 |
| | 2011 | \$ 128,807 | \$ - | \$ 22,249 | \$ 151,056 |
| Timothy Schatz, CFO ⁽²⁾ | 2012 | \$ 124,050 | \$ 15,000 | \$ 24,732 | \$ 163,782 |
| Paul Meyer, CFO ⁽³⁾ | 2011 | \$ 13,750 | \$ - | \$ 39,945 | \$ 53,695 |
| Matt Szot, CFO ⁽⁴⁾ | 2011 | \$ 43,487 | \$ - | \$ - | \$ 43,487 |

*In accordance with the rules and regulations promulgated by the Securities and Exchange Commission, the table omits columns that are not applicable.

(1) The Option Award expense for Mr. Becker refers to Mobivity Holdings Corp. options granted by our board of directors on December 24, 2010 pursuant to the Incentive Stock Option Plan approved by the board on the same date.

(2) Timothy Schatz was appointed Chief Financial Officer effective February 1, 2012. Amounts in the table above reflect his compensation after his appointment.

(3) Paul Meyer served as CFO from November 2, 2010 to July 1, 2011.

(4) Matt Szot served as CFO from July 22, 2011 to October 31, 2011.

The amounts reported in Option Awards column of the table above reflect the aggregate compensation costs for financial statement reporting purposes for fiscal 2012 and 2011 under Financial Accounting Standards Board (“FASB”) Accounting Standards Codification (“ASC”) Topic 718, Compensation – Stock Compensation (formerly referenced as Statement of Financial Accounting Standards No. 123(R)). These amounts do not reflect amounts paid to or realized by the executive officers for fiscal 2012 or 2011. Actual amounts earned for fiscal 2012 and 2011 are included in the Summary Compensation Table above. For information on the method and assumptions used to calculate the compensation costs, see Note 7 to our audited consolidated financial statements contained herein. The Option Award expense for Mr. Becker and Mr. Meyer refer to Mobivity Holdings Corp. options granted by our board of directors on December 24, 2010 pursuant to the Incentive Stock Option Plan approved by the Board on the same date.

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The following table presents the outstanding option awards held by each of our named executive officers as of December 31, 2012, including the value of the options awards.

Outstanding Equity Awards at December 31, 2012*

| Name | Option Awards | | | | Stock Awards | |
|--------------------|---|--|-----------------------|------------------------|---|---|
| | Number of Securities Underlying Unexercised Options (#) Exercisable | Equity Incentive Plan Awards; Number of Securities Underlying Unexercised Unearned Options (#) Unexercisable | Option Exercise Price | Option Expiration Date | Number of Shares or Units of Stock That Have Not Vested (#) | Market Value of Shares or Units of Stock That Have Not Vested |
| Dennis Becker CEO | 312,499 | 312,501 | \$ 0.32 | 12/24/2015 | 312,501 | 81,250 |
| Timothy Schatz CFO | 37,499 | 37,501 | \$ 0.32 | 12/24/2015 | 37,501 | 9,750 |
| Timothy Schatz CFO | 225,000 | 225,000 | \$ 0.40 | 8/20/2017 | 225,000 | 58,500 |

* In accordance with the rules and regulations promulgated by the Securities and Exchange Commission, the table omits columns that are not applicable.

Employment Agreements

On January 11, 2011, we entered into an employment agreement with Dennis Becker. Under the terms of the agreement, Mr. Becker will serve as our President and Chief Executive Officer for an initial term of three years from December 24, 2010 (the "Effective Date"). Unless terminated no less than 90 days prior to the expiration date by either party, the agreement is renewed automatically for successive one year periods. Under the agreement, Mr. Becker is paid a base annual salary of \$120,000. The base salary is subject to an annual increase at the sole discretion our board of directors. In addition to regular annual increases, the base salary will be increased by \$30,000 (up to a cumulative maximum of \$60,000) for each acquisition of the stock or all or substantially all of the assets of a third party entity, or the formation of joint ventures resulting in operating cash flows minus capital expenditures and dividends of no less than \$25,000 during a three month period ending six months after the completion of each such acquisition or formation of such joint venture. In addition, his salary will be increased to \$225,000 in the event we complete a financing transaction of no less than \$3,000,000 and we complete one acquisition. The board may further award him, at its sole discretion, an annual bonus of up to 50% of his base salary and grant him stock options.

If the agreement is terminated by us without cause (as defined in the agreement) or the we notify Mr. Becker that we will not renew the agreement, we will be required to pay him a severance payment equal to six months of his base salary payable in regular intervals following such termination or expiration of the agreement.

The agreement includes non-compete, non-solicitation, intellectual property assignment and confidentiality provisions that are customary in our industry.

On August 1, 2012, we entered into an employment agreement with Timothy Schatz. Under the terms of the agreement, Mr. Schatz will serve as our Chief Financial Officer for an initial term of three years from August 1, 2012 (the "Effective Date"). Unless terminated no less than 90 days prior to the expiration date by either party, the agreement is renewed automatically for successive one year periods. Under the agreement, Mr. Schatz is paid a base annual salary of \$160,000 and was also granted 225,000 stock options. The base salary is subject to an annual increase at the sole discretion our board of directors. The board may further award him, at its sole discretion, an annual bonus of up to 30% of his base salary and grant additional stock options.

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If the agreement is terminated by us without cause (as defined in the agreement) or the we notify Mr. Schatz that we will not renew the agreement, we will be required to pay him a severance payment equal to three months of his base salary payable in regular intervals following such termination or expiration of the agreement.

The agreement includes non-compete, non-solicitation, intellectual property assignment and confidentiality provisions that are customary in our industry.

Non-Employee Director Compensation

2012 Director Compensation Table

| Name | Fees Earned | Stock Awards | Option Awards | Non-Equity Incentive Plan Compensation | Deferred Compensation Earnings | All Other Compensation | Total |
|----------------|-------------|--------------|-----------------------|--|--------------------------------|------------------------|--------|
| Ronald Linares | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| David Jaques | - | - | 44,225 ⁽¹⁾ | - | - | - | 44,225 |
| Randall Smith | - | - | - | - | - | - | - |
| Fraser Clarke | - | - | 20,050 ⁽²⁾ | - | - | - | 20,050 |
| David Souaid | - | - | 20,050 ⁽²⁾ | - | - | - | 20,050 |
| Doug Schneider | - | - | 20,050 ⁽²⁾ | - | - | - | 20,050 |
| John Harris | - | - | 26,733 ⁽³⁾ | - | - | - | 26,733 |

(1) Compensation related to a stock option grant on December 1, 2011 for 100,000 shares at an exercise price of \$1.30 per share. The option is outstanding at December 31, 2012, and 27,083 shares are vested at December 31, 2012.

(2) Compensation related to a stock option grant on January 18, 2011 for 75,000 shares at an exercise price of \$1.75 per share. The option is outstanding at December 31, 2012, and 25,000 shares are vested at December 31, 2012.

(3) Compensation related to a stock option grant on January 18, 2011 for 100,000 shares at an exercise price of \$1.75 per share. The option is outstanding at December 31, 2012, and 33,000 shares are vested at December 31, 2012.

Item 12. Security Ownership of Certain Beneficial Owners and Management

The following table sets forth as of March 15, 2013, certain information regarding the beneficial ownership of our common stock. The table sets forth the beneficial ownership of (i) each person who, to our knowledge, beneficially owns more than 5% of our outstanding shares of Common Stock; (ii) each of our directors and executive officers; and (iii) all of our executive officers and directors as a group. The number of shares owned includes all shares beneficially owned by such persons, as calculated in accordance with Rule 13d-3 promulgated under the Securities Exchange Act of 1934, as amended (the “Exchange Act”). Unless otherwise indicated, the address of each shareholder is c/o the Company, 58 West Buffalo Road, Suite 200, Chandler, AZ 85225.

| Name of Beneficial Owner | Number of Shares | Percentage ⁽¹⁾ |
|---|------------------|---------------------------|
| CommerceTel Canada Corporation 1 First Canadian Place 100 King Street West Toronto, ON M5X 1B2 | 7,267,972 | 31.3% |
| Dennis Becker (2) | 7,844,449 | 33.2% |
| Timothy Schatz | 80,569 | * |
| David Souaid | 36,458 | * |
| David Jaques | 38,541 | * |
| Fraser Clarke (3) | 7,304,430 | 31.4% |
| Doug Schneider | 184,161 | * |
| John Harris | 48,611 | * |
| John Liviakis | 1,445,162 | 6.2% |
| Adspaq Limited | 2,125,000 | 9.2% |
| Executive Officers and Directors as a Group (six persons) | 7,894,705 | 33.1% |

* Denotes less than 1%

- (1) Beneficial ownership percentages are calculated based on shares of common stock issued and outstanding. Beneficial ownership is determined in accordance with Rule 13d-3 of the Exchange Act. The number of shares beneficially owned by a person includes shares of common stock underlying options or warrants held by that person that are currently exercisable or exercisable within 60 days of March 15, 2013. The shares issuable pursuant to the exercise of those options or warrants are deemed outstanding for computing the percentage ownership of the person holding those options and warrants but are not deemed outstanding for the purposes of computing the percentage ownership of any other person.
- (2) Includes 7,267,972 shares owned by CommerceTel Canada Corporation (“CTel Canada”) of which Mr. Becker may be deemed to be the beneficial owner in his capacity as President and Chief Executive Officer of that entity. Mr. Becker disclaims beneficial ownership in the shares owned by CTel Canada in excess of his proportional ownership of CTel Canada.
- (3) Includes 7,267,972 shares owned by CTel Canada of which Mr. Clarke may be deemed the beneficial owner in his capacity as Chairman of that entity. Mr. Clarke disclaims beneficial ownership in the shares owned by CTel Canada in excess of his proportional ownership of CTel Canada.

Item 13. Certain Relationships and Related Transactions, and Director Independence

Certain Relationships and Related Transactions

The following is a description of transactions or series of transactions since January 1, 2011, or any currently proposed transaction, to which we have been a party, in which the amount involved in the transaction or series of transactions exceeds the lesser of \$120,000 or one percent of the average of our total assets as of December 31, 2012 and December 31, 2011, and in which any of our directors, executive officers or persons who we know held more than five percent of any class of our capital stock, including their immediate family members, had or will have a direct or indirect material interest, other than compensation arrangements that are described under “Employment Agreements” above.

2012 Transactions

Prior to the reverse merger on November 2, 2010, Optimal Payments Corporation converted \$570,534 of debt into \$370,534 worth of Mobivity Inc. common stock and \$200,000 of prepaid services to be rendered by Mobivity. A member of the Company's Board of Directors is currently President of Sterling Card Solutions, which has a minority ownership position in Optimal Payments Corporation. During the year ended December 31, 2012, the Company began work on two projects for Optimal Payments Corporation and recognized revenue of \$162,500.

Indemnification Agreements with Directors and Executive Officers

We have entered into indemnity agreements with certain directors, officers and other key employees of ours under which we agreed to indemnify those individuals under the circumstances and to the extent provided for in the agreements, for expenses, damages, judgments, fines, settlements and any other amounts they may be required to pay in actions, suits or proceedings which they are or may be made a party or threatened to be made a party by reason of their position as a director, officer or other agent of ours, and otherwise to the fullest extent permitted under Nevada law and our bylaws. We also have an insurance policy covering our directors and executive officers with respect to certain liabilities, including liabilities arising under the Securities Act of 1933, as amended, or otherwise. We believe that these provisions and insurance coverage are necessary to attract and retain qualified directors, officers and other key employees.

Review, Approval or Ratification of Transactions with Related Persons

The board conducts an appropriate review of and oversees all related party transactions on a continuing basis and reviews potential conflict of interest situations where appropriate. The board has not adopted formal standards to apply when it reviews, approves or ratifies any related party transaction. However, the board has followed the following standards: (i) all related party transactions must be fair and reasonable to us and on terms comparable to those reasonably expected to be agreed to with independent third parties for the same goods and/or services at the time they are authorized by the board and (ii) all related party transactions should be authorized, approved or ratified by the affirmative vote of a majority of the directors who have no interest, either directly or indirectly, in any such related party transaction.

Item 14. Principal Accounting Fees and Services

The following table represents aggregate fees billed to us for the years ended December 31, 2012 and 2011 by M&K, CPAs and Mayer Hoffman McCann P.C., our principal auditors for such periods. All fees described below were approved by the board of directors.

| | <u>December 31, 2012</u> | <u>December 31, 2011</u> | |
|--------------------|--------------------------|--------------------------|----------------------|
| | <u>M&K CPAs</u> | <u>M&K CPAs</u> | <u>Mayer Hoffman</u> |
| Audit Fees | \$ 54,400 | \$ 47,555 | \$ 43,600 |
| Audit-Related Fees | - | - | 6,500 |
| Tax Fees | 3,650 | - | 7,000 |
| All Other Fees | - | - | - |
| Total Fees | <u>\$ 58,050</u> | <u>\$ 47,555</u> | <u>\$ 57,100</u> |

Board of Directors' Pre-Approval Policies and Procedures

The board of directors has adopted a policy for the pre-approval of audit and non-audit services rendered by our independent auditors, M&K CPAs. The policy generally pre-approves specified services in the defined categories of audit services, audit-related services and tax services up to specified amounts. Pre-approval may also be given as part of the board's approval of the scope of the engagement of the independent auditors or on an individual explicit case-by-case basis before the independent auditors are engaged to provide each service.

The board of directors has determined that the rendering of the services other than audit services by M&K CPAs is compatible with maintaining the principal accountant's independence.

PART IV

Item 15. Exhibits and Financial Statement Schedules.

(a)(1) Financial Statements

The Financial Statements of Mobivity Holdings Corp. and Report of Independent Registered Public Accounting Firm are included in a separate section of this Form 10-K beginning on page F-1.

(a)(2) Financial Statement Schedules

The schedules required to be filed by this item have been omitted because of the absence of conditions under which they are required, or because the required information is included in the financial statements or the notes thereto.

(a)(3) Exhibits

| Exhibit Number | Description |
|-----------------------|--|
| 2.1 | Share Exchange Agreement dated November 2, 2010 ⁽¹⁾ |
| 3.1 | Articles of Incorporation ⁽²⁾ |
| 3.2 | Bylaws ⁽²⁾ |
| 3.3 | Amendment to Bylaws ⁽³⁾ |
| 3.4 | Articles of Merger filed August 6, 2012 ⁽¹⁰⁾ |
| 4.1 | Form of 2010 10% Senior Secured Promissory Bridge Note ⁽⁴⁾ |
| 4.2 | Secured Subordinated Promissory Note, effective as of April 1, 2011 ⁽¹⁾ |
| 4.3 | Form of Warrant ⁽¹⁾ |
| 4.4 | Form of Secured Subordinated Promissory Note ⁽⁵⁾ |
| 4.5 | Form of Unsecured Subordinated Promissory Note ⁽⁵⁾ |
| 4.6 | Form of 2012 10% Senior Secured Promissory Bridge Note ⁽⁸⁾ |
| 4.7 | Form of Amendment to 2012 10% Senior Secured Convertible Bridge Notes ⁽¹¹⁾ |
| 10.1 | Form of Security Agreement ⁽⁴⁾ |
| 10.2 | Form of Subsidiary Guaranty ⁽⁴⁾ |
| 10.3 | Employment Agreement dated December 24, 2010 with Dennis Becker ⁽⁶⁾ |
| 10.4 | Asset Purchase Agreement dated March 3, 2011 by and among the Company, CommerceTel, Inc., Adspaq and selling shareholders ⁽¹⁾ |
| 10.5 | Acquisition Agreement, effective as of April 1, 2011 by and among the Company, CommerceTel, Inc., Mobile Visions, Inc., Mobivity LLC and their controlling shareholders ⁽⁶⁾ |
| 10.6 | Form of Subscription Agreement ⁽¹⁾ |
| 10.7 | Asset Purchase Agreement between the Company and Digimark LLC dated June 9, 2011 ⁽⁵⁾ |
| 10.8 | Amendment No. 1 dated July 8, 2011 to Asset Purchase Agreement ⁽⁵⁾ |
| 10.9 | Amendment No. 2 dated as of August 1, 2011 to Asset Purchase Agreement ⁽⁵⁾ |
| 10.10 | Form of Securities Purchase Agreement for 2012 10% Senior Secured Promissory Bridge Note ⁽⁸⁾ |
| 10.11 | Form of Security Agreement for 2012 10% Senior Secured Promissory Bridge Note ⁽⁸⁾ |
| 10.12 | Form of Guaranty for 2012 10% Senior Secured Promissory Bridge Note ⁽⁸⁾ |
| 10.13 | Form of Registration Rights Agreement for 2012 10% Senior Secured Promissory Bridge Note ⁽⁸⁾ |
| 10.14 | Employment Agreement entered into August 1, 2012 by and between the Company and Timothy Schatz ^{(9)**} |
| 31.1 | Certification of Dennis Becker, Chief Executive Officer, pursuant to Section 302 of the Sarbanes-Oxley Act of 2002* |
| 31.2 | Certification of Timothy Schatz, Chief Financial Officer, pursuant to Section 302 of the Sarbanes-Oxley Act of 2002* |
| 32.1 | Certification of Dennis Becker, Chief Executive Officer, and Timothy Schatz, Chief Financial Officer, pursuant to Section 906 of the Sarbanes-Oxley Act of 2002* |

| | |
|-------------------|---|
| 101.INS*** | XBRL Instance Document* |
| 101.CAL*** | XBRL Taxonomy Extension Calculation Linkbase Document* |
| 101.LAB*** | XBRL Taxonomy Extension Label Linkbase Document* |
| 101.PRE*** | XBRL Taxonomy Extension Presentation Linkbase Document* |
| 101.DEF*** | XBRL Taxonomy Extension Definition Linkbase Document* |

* Filed herewith

** Indicates management compensatory plan, contract or arrangement

***Pursuant to applicable securities laws and regulations, we are deemed to have complied with the reporting obligation relating to the submission of interactive data files in such exhibits and are not subject to liability under any anti-fraud provisions of the deferral securities laws as long as we have made a good faith attempt to comply with the submission requirements and promptly amend the interactive data files after becoming aware that the interactive data files fail to comply with the submission requirements. Users of this data are advised that, pursuant to Rule 406T, these interactive data files are deemed not filed and otherwise are not subject to liability.

- (1) Incorporated by reference to the Company's Annual Report on Form 10-K filed on April 14, 2011
- (2) Incorporated by reference to the Registration Statement on Form S-1 filed with the SEC on October 20, 2008, File No. 333-154455
- (3) Incorporated by reference to the Company's Current Report on Form 8-K filed December 2, 2011
- (4) Incorporated by reference to the Company's Current Report on Form 8-K filed November 7, 2010
- (5) Incorporated by reference to the Company's Current Report on Form 8-K filed August 15, 2011
- (6) Incorporated by reference to the Company's Current Report on Form 8-K filed January 18, 2011
- (7) Incorporated by reference to the Company's Current Report on Form 8-K filed February 24, 2012
- (8) Incorporated by reference to the Company's Current Report on Form 8-K filed June 4, 2012
- (9) Incorporated by reference to the Company's Current Report on Form 8-K filed August 7, 2012
- (10) Incorporated by reference to the Company's Current Report on Form 8-K filed August 10, 2012
- (11) Incorporated by reference to the Company's Current Report on Form 8-K filed October 19, 2012

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) 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.

DATE: March 21, 2013

MOBIVITY HOLDINGS CORP.

/s/ Dennis Becker

Dennis Becker
Chief Executive Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

| <u>Signature</u> | <u>Title</u> | <u>Date</u> |
|---------------------------|--------------------------------------|----------------|
| <i>/s/ Dennis Becker</i> | Chief Executive Officer and Director | March 21, 2013 |
| <i>/s/ Timothy Schatz</i> | Chief Financial Officer | March 21, 2013 |
| <i>/s/ Ronald Linares</i> | Director | March 21, 2013 |
| <i>/s/ David Jaques</i> | Director | March 21, 2013 |
| <i>/s/ Randall Smith</i> | Director | March 21, 2013 |
| <i>/s/ Fraser Clarke</i> | Director | March 21, 2013 |
| <i>/s/ David Souaid</i> | Director | March 21, 2013 |
| <i>/s/ Doug Schneider</i> | Director | March 21, 2013 |
| <i>/s/ John Harris</i> | Director | March 21, 2013 |

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER
Pursuant to Rule 13a-14(a) adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

I, Dennis Becker, certify that:

1. I have reviewed this Annual Report on Form 10-K of Mobivity Holdings Corp;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 21, 2013

By: /s/ Dennis Becker
Dennis Becker
Chief Executive Officer

(Principal Executive Officer)

CERTIFICATION OF CHIEF FINANCIAL OFFICER
Pursuant to Rule 13a-14(a) adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

I, Timothy Schatz, certify that:

1. I have reviewed this Annual Report on Form 10-K of Mobivity Holdings Corp;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 21, 2012

By: /s/ Timothy Schatz
Timothy Schatz
Chief Financial Officer

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Annual Report on Form 10-K of Mobivity Holdings Corp., a Nevada corporation (the "Company"), for the period ended December 31, 2012, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), we, Dennis Becker, Chief Executive Officer of the Company, and Timothy Schatz, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

Dated: March 21, 2012

/s/ Dennis Becker
Dennis Becker
Chief Executive Officer
(Principal Executive Officer)

/s/ Timothy Schatz
Timothy Schatz
Chief Financial Officer
(Principal Financial and Accounting Officer)

