SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q/A

(Mark One)

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

For the quarterly period ended June 30, 2008

Or

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

For the transition period from to

Commission file number: 000-49799

OVERSTOCK.COM, INC.

(Exact name of registrant as specified in its charter)

Delaware	**87-0634302**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification Number)

6350 South 3000 East

Salt Lake City, Utah 84121

(Address, including zip code, of

Registrant s principal executive offices)

Registrant s telephone number, including area code: **(801) 947-3100**

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), (2) has been subject to such filing requirements for the past 90 days. Yes x No o

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 definitions of large accelerated filer, accelerated filer, and smaller reporting company in Rule 12b-2 of the Exchange Act. (Check one):

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

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

There were 22,812,317 shares of the Registrant s common stock, par value $0.0001, outstanding on August 1, 2008.

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EXPLANATORY NOTE

Overstock.com, Inc. (the Company) is amending its Quarterly Report on Form 10-Q (Form 10-Q or Original Filing) for the quarter ended June 30, 2008, to restate its consolidated financial statements and other financial information for the quarters ended June 30, 2007 and 2008 to correct errors related to the accounting for customer refunds and credits and the accounting for gift cards issued to customers. This Amendment to Form 10-Q (Amendment) amends the Quarterly Report on Form 10-Q for the quarter ended June 30, 2008, as filed on August 4, 2008.

The Company s decision to restate the aforementioned financial information was made on October 20, 2008 as a result of management s identification of errors related to the accounting for customer refunds and credits. Management subsequently determined that a portion of the error previously believed to be related to the accounting for customer refunds and credits was actually related to the accounting for gift cards issued to customers. As more fully described in Note 3 of the financial statements (see Item 1 of Part I, Financial Statements (Unaudited) (Restated) Note 3 Restatement of Financial Statements) management, including its CEO (principal executive officer) and Senior Vice President, Finance (principal financial officer), concluded, and the Board of Directors agreed with management s conclusions that:

The Company s controls were not designed or operating effectively to ensure all refunds and credits issued to customers and gift cards issued to customers were completely and accurately recorded in the consolidated financial statements. These control failures impacted accounts receivable and deferred revenue in the consolidated balance sheet as well as revenue and returns expense (a component of revenue), in the consolidated statement of operations. As a result, revenue, net of returns expense, was misstated in the consolidated statement of operations and accounts receivable and deferred revenue were misstated in the consolidated balance sheet as of and for the years ended December 31, 2007, 2006, 2005, and 2004 and the related interim periods and as of June 30, 2008 and the three and six months ended June 30, 2008. The amounts of these errors were determined to be material to the consolidated financial statements.

In addition, from the Company s inception through the third quarter of 2007, the Company had recorded revenue based on product ship date. As disclosed the Annual Report on Form 10-K for the year ended December 31, 2007, the Company determined that it should not record revenue until product delivery date because risk of loss transfers to the customer upon delivery and acceptance. In the fourth quarter of 2007, the Company performed a detailed analysis of this error and determined that the impact of this error on any prior annual or interim period was not material and the impact of recording the cumulative effect of the error in the fourth quarter of 2007 was immaterial to the full year. Therefore, the Company recorded the cumulative effect of the error in the fourth quarter of 2007. As the Company is now restating its previously issued consolidated financial statements to correct accounting errors related to customer refunds and credits and gift cards issued to customers, it has reversed the cumulative effect of the correction of the error in the fourth quarter of 2007 and restated all prior periods to reflect revenue recognition based on the product s estimated delivery date in its consolidated financial statements for the years ended December 31, 2007, 2006, 2005, 2004 and 2003 (see Item 1 of Part I, Financial Statements (Unaudited) (Restated) Note 3 Restatement of Financial Statements). The Company also recorded other miscellaneous adjustments as part of this restatement that were previously identified but determined to be immaterial.

In addition, the control failures described above constitute a material weakness in the Company s internal control over financial reporting as of June 30, 2008 (see Item 4 of Part I, Controls and Procedures (Restated)).

Except as required to reflect the effects of the restatement for the items above, no additional modifications or updates in this Amendment have been made to the Original Filing on Form 10-Q. Information not affected by the restatement remains unchanged and reflects the disclosures made at the time of the Original Filing. This amendment does not describe other events occurring after the original filing, including exhibits, or modify or update those disclosures affected by subsequent events. This Amendment should be read in conjunction with the Company s filings made with the SEC subsequent to the filing of the Original Filing, as those filings may have been amended, as information in such reports and documents may update or supersede certain information contained in this Amendment. Accordingly, this Amendment only amends and restates Item 1, 2 and 4 of Part I of the Original Filing, in each case, solely as a result of, and to reflect, the restatement, and no other information in the Original Filing is amended hereby. Additionally, pursuant to the rules of the SEC, Item 6 of Part II of the Original Filing has been amended to contain currently dated certifications of the Chief Executive Officer and Senior Vice President, Finance. As required by Sections 302 and 906 of the Sarbanes-Oxley Act of 2002, the certifications of our Chief Executive Officer and Senior Vice President, Finance, are attached to this Amendment as Exhibits 31.1, 31.2, 32.1 and 32.2.

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PART 1. FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

Overstock.com, Inc.

Consolidated Balance Sheets (unaudited)

(in thousands)

	December 31, 2007 (Restated)	June 30, 2008 (Restated)
Assets		
Current assets:		
Cash and cash equivalents	$ 101,394	$ 56,679
Marketable securities	46,000	30,020
Cash, cash equivalents and marketable securities	147,394	86,699
Accounts receivable, net	11,208	9,977
Notes receivable (Note 5)	1,506	250
Inventories, net	25,643	14,036
Prepaid inventory	3,572	2,648
Prepaid expenses	7,572	10,481
Total current assets	196,895	124,091
Property and equipment, net	27,197	21,318
Goodwill	2,784	2,784
Other long-term assets, net	86	30
Notes receivable (Note 5)	4,181	4,453
Total assets	$ 231,143	$ 152,676
Liabilities and Stockholders Equity (Deficit)		
Current liabilities:		
Accounts payable	$ 70,358	$ 31,217
Accrued liabilities	37,155	24,522
Deferred revenue	22,965	20,263
Capital lease obligations	3,796	
Total current liabilities	134,274	76,002
Other long-term liabilities	3,034	2,975
Convertible senior notes	75,623	75,795
Total liabilities	212,931	154,772
Commitments and contingencies (Notes 8 and 9)		
Stockholders equity (deficit):		
Preferred stock, $0.0001 par value, 5,000 shares authorized, no shares issued and outstanding as of December 31, 2007 and June 30, 2008		
Common stock, $0.0001 par value, 100,000 shares authorized, 25,423 and 25,496 shares issued as of December 31, 2007 and June 30, 2008, respectively	2	2
Additional paid-in capital	333,909	337,659
Accumulated deficit	(252,327)	(264,410)
Treasury stock, 1,605 and 2,713 shares at cost as of December 31, 2007 and June 30, 2008, respectively	(63,278)	(75,218)

Accumulated other comprehensive loss		(94)		(129)
Total stockholders equity (deficit)		18,212		(2, 096)
Total liabilities and stockholders equity (deficit)	$	231,143	$	152,676

The accompanying notes are an integral part of these consolidated financial statements.

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Overstock.com, Inc.

Consolidated Statements of Operations (unaudited)

(in thousands, except per share data)

	Three months ended June 30, 2007 (Restated)	Three months ended June 30, 2008 (Restated)	Six months ended June 30, 2007 (Restated)	Six months ended June 30, 2008 (Restated)
Revenue				
Direct revenue	$ 43,658	$ 39,832	$ 90,648	$ 91,596
Fulfillment partner revenue	105,513	149,004	220,679	300,055
Total revenue	149,171	188,836	311,327	391,650
Cost of goods sold				
Direct(1)	36,456	34,871	77,925	79,674
Fulfillment partner	86,523	120,756	182,600	244,796
Total cost of goods sold	122,979	155,627	260,525	324,470
Gross profit	26,192	33,209	50,802	67,180
Operating expenses:				
Sales and marketing(1)	7,962	14,244	19,246	29,263
Technology(1)	15,237	15,311	30,210	29,827
General and administrative(1)	10,429	10,867	21,118	20,430
Restructuring	6,194		12,283	
Total operating expenses	39,822	40,422	82,857	79,520
Operating loss	(13,630)	(7,213)	(32,055)	(12,340)
Interest income	1,078	740	2,068	2,044
Interest expense	(1,027)	(888)	(2,056)	(1,789)
Other income, net		2		2
Loss from continuing operations	(13,579)	(7,359)	(32,043)	(12,083)
Loss from discontinued operations	(300)		(3,924)	
Net loss	$ (13,879)	$ (7,359)	$ (35,967)	$ (12,083)
Net loss per common share basic and diluted:				
Loss from continuing operations	$ (0.57)	$ (0.32)	$ (1.35)	$ (0.52)
Loss from discontinued operations	$ (0.02)	$	$ (0.17)	$
Net loss per common share basic and diluted	$ (0.59)	$ (0.32)	$ (1.52)	$ (0.52)
Weighted average common shares outstanding basic and diluted	23,689	22,750	23,642	23,048

(1) Includes stock-based compensation from stock based awards as follows (Note 12):

Cost of goods sold direct	$	114	$	50	$	221	$	99
Sales and marketing	$	85	$	86	$	163	$	170
Technology	$	188	$	220	$	365	$	434
General and administrative	$	750	$	862	$	1,461	$	1,849

The accompanying notes are an integral part of these consolidated financial statements.

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Overstock.com, Inc.

Consolidated Statements of Stockholders Equity (Deficit)

and Comprehensive Loss (unaudited)

(in thousands)

	Common stock Shares	Common stock Amount	Additional Paid-in Capital	Accumulated Deficit	Treasury stock Shares	Treasury stock Amount	Accumulated Other Comprehensive Income (loss)	Total
Balance at December 31, 2007 (Restated)	25,423	$ 2	$ 333,909	$ (252,327)	(1,605)	$ (63,278)	$ (94)	$ 18,212
Exercise of stock options	73		924					924
Treasury stock issued for 401(k) matching contribution			(41)		2	60		19
Stock-based compensation to employees and directors			2,252					2,252
Stock-based compensation to consultants in exchange for services			315					315
Stock-based compensation for performance share plan			300					300
Purchase of treasury stock					(1,110)	(12,000)		(12,000)
Comprehensive loss (Restated):								
Net loss (Restated)				(12,083)				(12,083)
Net unrealized loss on marketable securities							(3)	(3)
Cumulative translation adjustment							(32)	(32)
Total comprehensive loss (Restated)								(12,118)
Balance at June 30, 2008 (Restated)	25,496	$ 2	$ 337,659	$ (264,410)	(2,713)	$ (75, 218)	$ (129)	$ (2,096)

The accompanying notes are an integral part of these consolidated financial statements.

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Overstock.com, Inc.

Consolidated Statements of Cash Flows (unaudited)

(in thousands)

	Three months ended June 30, 2007 (Restated)	Three months ended June 30, 2008 (Restated)	Six months ended June 30, 2007 (Restated)	Six months ended June 30, 2008 (Restated)	Twelve months ended June 30, 2007 (Restated)	Twelve months ended June 30, 2008 (Restated)
Cash flows from operating activities of continuing operations:						
Net loss	$ (13,879)	$ (7,359)	$ (35,967)	$ (12,083)	$ (109,459)	$ (24,152)
Adjustments to reconcile net loss to cash provided by (used in) operating activities of continuing operations:						
Loss from discontinued operations	300		3,924		8,898	
Depreciation and amortization	7,974	5,887	15,745	12,384	35,046	26,134
Loss on disposition of property and equipment	1		1		1	
Stock-based compensation to employees and directors	1,137	1,068	2,210	2,252	4,284	4,564
Stock-based compensation to consultants for services	135	329	140	315	129	364
Stock-based compensation for performance share plan		150		300		(250)
Issuance of common stock from treasury for 401(k) matching contribution	113		715	19	890	(202)
Amortization of debt discount and deferred financing fees	86	85	172	172	311	344
Asset impairment and depreciation (other non cash restructuring)	2,169		2,169		2,960	
Restructuring charges	4,025		10,114		14,997	
Notes receivable accretion		(136)		(272)		(544)
Changes in operating assets and liabilities, net of effect of discontinued operations:						
Accounts receivable, net	613	(700)	8,697	1,231	686	(2,644)
Inventories, net	1,152	3,934	6,944	11,607	54,745	2,890
Prepaid inventory	477	(80)	117	924	1,119	(524)
Prepaid expenses	700	(363)	(1,262)	(2,909)	913	(1,746)
Other long-term assets, net	176		266		744	205
Accounts payable	4,667	(1,622)	(30,421)	(39,141)	(2,647)	3,129
Accrued liabilities	4,125	36	(19,164)	(12,633)	(5,211)	623
Deferred revenue	968	(927)	(7,701)	(2,702)	1,006	4,744
Other long-term liabilities		147		(59)		(252)
Net cash provided by (used in) operating activities of continuing operations	14,939	449	(43,301)	(40,595)	9,412	12,683

Cash flows from investing activities of continuing operations:						
Purchases marketable securities	(21,381)	(18,823)	(21,381)	(25,362)	(21,381)	(79,198)
Sales and maturities of marketable securities	3,400	18,428	3,400	41,339	3,400	67,197
Expenditures for property and equipment	(1,439)	(5,136)	(1,916)	(6,449)	(13,450)	(7,176)
Proceeds from the sale of discontinued operations, net of cash transferred	9,892		9,892		9,892	
Collection of note receivable	753	754	4,694	1,256	4,694	1,758
Decrease in cash resulting from de-consolidation of variable interest entity					(102)	
Net cash (used in) provided by investing activities of continuing operations	(8,775)	(4,777)	(5,311)	10,784	(16,947)	(17,419)
Cash flows from financing activities of continuing operations:						
Payments on capital lease obligations	(4)	(2)	(5,251)	(3,796)	(5,454)	(3,806)
Drawdown on line of credit		1,128	1,169	6,396	14,592	7,650
Payments on line of credit		(1,128)	(1,169)	(6,396)	(14,592)	(7,650)
Issuance of common stock in offerings, net of issuance costs					39,406	
Purchase of treasury stock				(12,000)		(12,000)
Exercise of stock options	768	924	1,921	924	2,994	2,233
Net provided by (used in) financing activities of continuing operations	764	922	(3,330)	(14,872)	36,946	(13,573)
Effect of exchange rate changes on cash	36	(9)	21	(32)	84	(56)
Cash (used in) provided by operating activities from discontinued operations	(614)		(204)		1,307	
Cash used in investing activities of discontinued operations			(53)		(315)	
Net increase (decrease) in cash and cash equivalents	6,350	(3,415)	(52,178)	(44,715)	30,487	(18,365)
Change in cash and cash equivalents from discontinued operations	614		257		(993)	
Cash and cash equivalents, beginning of period	68,080	60,094	126,965	101,394	45,550	75,044
Cash and cash equivalents, end of period	$ 75,044	$ 56,679	$ 75,044	$ 56,679	$ 75,044	$ 56,679
Supplemental disclosure of cash flow information:						
Interest paid	$ 1,585	$ 1,524	$ 2,236	$ 2,163	$ 4,104	$ 3,809
Asset retirement obligation					450	
Deemed dividend on redeemable common stock					33	
Lapse of rescission right on redeemable common stock					2,431	
Promissory note received in exchange for deconsolidation of variable					6,702	
Promissory notes received as proceeds from sale of discontinued operations	6,000		6,000		6,000	
Prior year discretionary 401(k) contribution					408	

The accompanying notes are an integral part of these consolidated financial statements.

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Overstock.com, Inc.

Notes to Unaudited Consolidated Financial Statements

1. BASIS OF PRESENTATION

The accompanying unaudited consolidated financial statements have been prepared by Overstock.com, Inc. (the Company) pursuant to the rules and regulations of the Securities and Exchange Commission regarding interim financial reporting. Accordingly, they do not include all of the information and footnotes required by generally accepted accounting principles for complete financial statements and should be read in conjunction with Management s Discussion and Analysis of Financial Condition and Results of Operations (Restated) and the audited annual consolidated financial statements and related notes thereto included in the Annual Report on Form 10-K/A for the year ended December 31, 2007. The accompanying unaudited consolidated financial statements reflect all adjustments, consisting of normal recurring adjustments, which are, in the opinion of management, necessary for a fair statement of results for the interim periods presented. Preparing financial statements requires management to make estimates and assumptions that affect the amounts that are reported in the consolidated financial statements and accompanying disclosures. Although these estimates are based on management s best knowledge of current events and actions that the Company may undertake in the future, actual results may be different from the estimates. The results of operations for the three and six months ended June 30, 2008 are not necessarily indicative of the results to be expected for any future period or the full fiscal year.

2. ACCOUNTING POLICIES

Principles of consolidation

The accompanying consolidated financial statements include the accounts of the Company and its wholly-owned subsidiaries. The consolidated financial statements include the accounts of the Company s OTravel subsidiary through April 25, 2007 (see Note 5 Sale of Discontinued Operations). All significant intercompany account balances and transactions have been eliminated in consolidation.

Use of estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires estimates and assumptions that affect the reported amounts of assets and liabilities, revenues and expenses, and related disclosures of contingent liabilities in the consolidated financial statements and accompanying notes. Estimates are used for, but not limited to, valuation of investments, receivables valuation, revenue recognition, sales returns, incentive discount offers, inventory valuation, depreciable lives of fixed assets, internally-developed software, valuation of acquired intangibles, income taxes, stock-based compensation, and contingencies. Actual results could differ materially from those estimates.

Revenue recognition

The Company derives revenue primarily from two sources: direct revenue and fulfillment partner revenue. Direct revenue consists of sale of merchandise to both individual consumers and businesses that are fulfilled directly from the Company s leased warehouses. Fulfillment partner revenue includes listing fees and commissions collected from products being listed and sold through the Auctions section of its Website, advertisement and lead generation revenue derived from its Cars listing site, and advertising revenue generated by its Real Estate site. The Company has organized its operations into two principal segments based on these primary sources of revenue (see Note 13 Business Segments).

Revenue is recognized when the following revenue recognition criteria are met: (1) persuasive evidence of an arrangement exists; (2) delivery has occurred or the service has been provided; (3) the selling price or fee revenue earned is fixed or determinable; and (4) collection of the resulting receivable is reasonably assured.

Revenue related to merchandise sales is recognized upon delivery to the Company s customers. As the Company ships high volumes of packages through multiple carriers, it is not practical for the Company to track the actual delivery date of each shipment. Therefore, the Company uses estimates to determine which shipments are delivered and therefore recognized as revenue at the end of the period. The delivery date estimates are based on average shipping transit times, which are calculated using the following factors: (i) the shipping carrier (as carriers differ in transit times); (ii) the fulfillment source (either the Company s warehouses or those of its fulfillment partners); (iii) the delivery destination; and (iv) actual transit time experience, which shows that delivery date is typically one to eight business days from the date of shipment.

The Company evaluates the criteria outlined in EITF Issue No. 99-19, *Reporting Revenue Gross as a Principal Versus Net as an Agent*, in determining whether it is appropriate to record the gross amount of product sales and related costs or the net amount earned as commissions. When the Company is the primary obligor in a transaction, is subject to inventory risk, has latitude in establishing prices and selecting suppliers, or has several but not all of these indicators, revenue is recorded gross. If the Company is not the primary obligor in the transaction and amounts earned are determined using a fixed percentage, revenue is recorded on a net basis. Currently, the majority of both direct revenue and fulfillment partner revenue is recorded on a gross basis, as the Company is the primary obligor.

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The Company periodically provides incentive offers to its customers to encourage purchases. Such offers include current discount offers, such as percentage discounts off current purchases and other similar offers. Current discount offers, when accepted by its customers, are treated as a reduction to the purchase price of the related transaction.

Direct revenue

Direct revenue consists of sales of merchandise to both individual consumers and businesses that are fulfilled directly from the Company s leased warehouses. Direct sales occur primarily through the Company s Website, but may also occur through other offline channels.

Fulfillment partner revenue

Fulfillment partner revenue consists of merchandise sold through the Company s Website and shipped by third parties directly to consumers and other businesses from warehouses maintained by the fulfillment partners, as well as revenue from the Auctions, Cars and Real Estate sections of its Website.

The auctions site (added to the Website in September 2004) allows sellers to list items for sale, buyers to bid on items of interest, and users to browse through listed items online. With limited exceptions, the Company is not considered the seller of the items sold on the auctions site and has no control over the pricing of those items. Therefore, for these sales, only the listing fees for items listed and commissions for items sold are recorded as revenue during the period items are listed or sold. Auctions revenues were insignificant during the three and six months ended June 30, 2007 and 2008, and are included in the fulfillment partner segment, as they are not large enough to separate out as its own segment.

The cars listing service (added to the Website in December 2006) allows dealers to list vehicles for sale and allows buyers to review vehicle descriptions, post offers to purchase, and provides the means for purchasers to contact sellers for further information and negotiations on the purchase of an advertised vehicle. Revenue from its cars listing business is included in the fulfillment partner segment, as it is not significant enough to separate out as its own segment.

The real estate listing service (added to the Website in May 2008) allows customers to search active listings across the country. Listing categories include foreclosures, live and on-line auctions, for sale by owner listings, broker/agent listings and numerous aggregated classified ad listings. Advertising revenue from the real estate business is included in the fulfillment partner segment, as it is not significant enough to separate out as its own segment.

Deferred revenue

Payment is generally required by credit card at the point of sale. Amounts received prior to delivery of products or services provided are recorded as deferred revenue. Amounts received in advance for Club O membership fees are recorded as deferred revenue and recognized ratably over the membership period. In addition, the Company sells gift cards and records related deferred revenue at the time of the sale. Revenue from a gift certificate is recognized when a customer redeems it. If a gift certificate is not redeemed, the Company recognizes revenue when the likelihood of its redemption becomes remote, generally two years from the date of issuance.

Internal-Use Software and Website Development

The Company includes in fixed assets the capitalized cost of internal-use software and website development, including software used to upgrade and enhance its Website and processes supporting the Company s business. As required by Statement of Position (SOP) 98-1, *Accounting for the Costs of Computer Software Developed or Obtained for Internal Use,* the Company capitalizes costs incurred during the application development stage of internal-use software and amortizes these costs over the estimated useful life of two to three years. The Company expenses costs incurred related to design or maintenance of internal-use software as incurred.

During the three months ended June 30, 2007 and 2008, the Company capitalized $226,000 and $1.8 million, respectively, of costs associated with internal-use software and website development, which are partially offset by amortization of previously capitalized amounts of $3.7 million and $3.1 million for those respective periods. For the six months ended June 30, 2007 and 2008, the Company capitalized $1.5 million and $2.6 million of costs associated with internal-use software and website development, which are partially offset by amortization of previously capitalized amounts of $7.1 million and $6.2 million, respectively.

Advertising expense

The Company recognizes advertising expenses in accordance with SOP 93-7, *Reporting on Advertising Costs*. As such, the Company expenses the costs of producing advertisements at the time production occurs or the first time the advertising takes place and expenses the cost of communicating advertising in the period during which the advertising space or airtime is used. Internet advertising expenses are recognized as incurred based on the terms of the individual agreements, which are generally: (i) a commission for traffic driven to the Website that generates a sale, and (ii) based on the number of clicks on keywords or links to the Company s Website generated during a given period. Advertising expense included in sales and marketing expenses totaled $7.1

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million and $13.1 million during the three months ended June 30, 2007 and 2008, respectively. For the six months ended June 30, 2007 and 2008, advertising expenses totaled $17.7 million and $27.0 million, respectively.

Restructuring

Restructuring expenses are primarily comprised of lease termination costs and the costs incurred for returning leased facilities back to their original condition in anticipation of subleasing current office space. Statement of Financial Accounting Standard (SFAS) No. 146, *Accounting for Costs Associated with Exit or Disposal Activities* (SFAS No. 146), requires that when an entity ceases using a property that is leased under an operating lease before the end of its term contract, the termination costs should be recognized and measured at fair value when the entity ceases using the facility. Key assumptions in determining the restructuring expenses include the terms that may be negotiated to exit certain contractual obligations (see Note 4 Restructuring Expense).

Fair Value of Financial Instruments

In September 2006, the Financial Accounting Standards Board (FASB) issued SFAS No. 157, *Fair Value Measurements* (SFAS No.157), which defines fair value, establishes guidelines for measuring fair value and expands disclosures regarding fair value measurements. SFAS No. 157 does not require any new fair value measurements but rather eliminates inconsistencies in guidance found in various prior accounting pronouncements. SFAS No. 157 is effective for fiscal years beginning after November 15, 2007. In February 2008, the FASB issued FASB Staff Position, or FSP, FAS No. 157-2, *Effective Date of FASB Statement No. 157* (FSP FAS No. 157-2), which delayed the effective date of SFAS No. 157 to fiscal years beginning after November 15, 2008 and interim periods within those fiscal years for all non-financial assets and non-financial liabilities, except those that are recognized or disclosed at fair value in the financial statements on a recurring basis (at least annually). The Company adopted SFAS No. 157 for fiscal 2008, except as it applies to those non-financial assets and non-financial liabilities as described in FSP FAS No. 157-2, and it did not have a material impact on its consolidated financial position, results of operations or cash flows.

On a quarterly basis, the Company measures at fair value certain financial assets, including cash equivalents and available-for-sale securities. SFAS No. 157 specifies a hierarchy of valuation techniques based on whether the inputs to those valuation techniques are observable or unobservable. Observable inputs reflect market data obtained from independent sources, while unobservable inputs reflect the Company s market assumptions. These two types of inputs have created the following fair-value hierarchy:

- Level 1 Quoted prices for identical instruments in active markets;
- Level 2 Quoted prices for similar instruments in active markets, quoted prices for identical or similar instruments in markets that are not active, and model-derived valuations in which all significant inputs and significant value drivers are observable in active markets; and
- Level 3 Valuations derived from valuation techniques in which one or more significant inputs or significant value drivers are unobservable.

This hierarchy requires the Company to minimize the use of unobservable inputs and to use observable market data, if available, when determining fair value. The fair value of these financial assets and liabilities was determined using the following levels of inputs as of June 30, 2008 (in thousands):

		Fair Value Measurements as of June 30, 2008:		
	Total	Level 1	Level 2	Level 3
Assets:				
Cash equivalents Money market mutual funds	$ 33,948	$ 33,948	$	$
Available-for-sale securities	30,020	30,020		
Total assets	$ 63,968	$ 63,968	$	$

Earnings (loss) per share

In accordance with SFAS No. 128, *Earnings per share*, basic earnings (loss) per share is computed by dividing net income (loss) attributable to common shares by the weighted average number of common shares outstanding during the period. Diluted earnings (loss) per share is computed by dividing net income (loss) for the period by the weighted average number of common and potential common shares outstanding during the period. Potential common shares, composed of incremental common shares issuable upon the exercise of stock options, restricted stock units, convertible senior notes and shares under the Performance Share Plan, are included in the calculation of diluted net earnings (loss) per share to the extent such shares are dilutive.

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The following table sets forth the computation of basic and diluted earnings (loss) per share for the periods indicated (in thousands, except per share amounts):

	Three months ended June 30, 2007 (Restated)		Three months ended June 30, 2008 (Restated)		Six months ended June 30, 2007 (Restated)		Six months ended June 30, 2008 (Restated)
Loss from continuing operations	$	(13,579)	$	(7,359)	$	(32,043)	$	(12,083)
Loss from discontinued operations		(300)				(3,924)		
Net loss	$	(13,879)	$	(7,359)	$	(35,967)	$	(12,083)
Weighted average common shares outstanding basic		23,689		22,750		23,642		23,048
Effective of dilutive securities:								
Stock options								
Restricted stock units								
Convertible senior notes								
Shares under the Performance Share Plan								
Weighted average common shares outstanding diluted		23,689		22,750		23,642		23,048
Net loss per common share basic and diluted:								
Loss from continuing operations	$	(0.58)	$	(0.32)	$	(1.35)	$	(0.52)
Loss from discontinued operations	$	(0.01)	$		$	(0.17)	$	
Net loss per common share basic and diluted	$	(0.59)	$	(0.32)	$	(1.52)	$	(0.52)

The stock options, restricted stock units, convertible senior notes outstanding and shares under the Performance Share Plan were not included in the computation of diluted earnings (loss) per share because to do so would have been antidilutive. The number of stock options outstanding at June 30, 2007 and 2008 was 1,290,000 and 1,031,000, respectively. In the first six months of 2008, the Compensation Committee of the Board of Directors approved grants of approximately 12,000 stock options and 485,000 restricted stock units to officers and employees of the Company. As of June 30, 2008, there were 457,000 restricted stock units outstanding (see Note 12 Stock Based Awards). As of June 30, 2008, the Company had $77.0 million of convertible senior notes outstanding, which could potentially convert into 1,010,000 shares of common stock in the aggregate.

Recent accounting pronouncements

In February 2007, the FASB issued SFAS No. 159, *The Fair Value Option for Financial Assets and Financial Liabilities* (SFAS No. 159). Under SFAS No. 159, companies may elect to measure certain financial instruments and certain other items at fair value. The standard requires that unrealized gains and losses on items for which the fair value option has been elected be reported in earnings. SFAS No. 159 is effective for fiscal years beginning after November 15, 2007. The Company adopted SFAS No. 159 for fiscal 2008; however, it did not elect to apply the fair value option to any financial instruments or other items upon adoption of SFAS No. 159 during the six months ended June 30, 2008. Therefore, the adoption of SFAS No. 159 did not impact the Company s consolidated financial position, results of operations or cash flows.

In December 2007, the FASB issued SFAS No. 141 (R), *Business Combinations* (SFAS No. 141 (R)), and SFAS No. 160, *Noncontrolling Interests in Consolidated Financial Statements* (SFAS No. 160). SFAS No. 141 (R) requires an acquirer to measure the identifiable assets acquired, the liabilities assumed and any noncontrolling interest in the acquired entity at their fair values on the acquisition date, with goodwill being the excess value over the net identifiable assets acquired. SFAS No. 160 clarifies that a noncontrolling interest in a subsidiary should be reported as equity in the consolidated financial statements. The calculation of earnings per share will continue to be based on income amounts attributable to the parent. SFAS No. 141 (R) and SFAS No. 160 are effective for financial statements issued for fiscal years beginning after December 15, 2008. Early adoption is prohibited. The Company does not expect the adoption of SFAS No. 141 (R) or SFAS No. 160 to impact its financial position and results of operations or cash flows.

In March 2008, the FASB issued SFAS No. 161, *Disclosures about Derivative Instruments and Hedging Activities an amendment of FASB Statement No. 133* (SFAS No. 161). SFAS No. 161 requires enhanced disclosures about a company s derivative and hedging activities, in particular: 1) how and why derivative instruments are utilized; 2) how derivative instruments and related hedged items are accounted for under SFAS No. 133 and its related interpretations; and 3) how derivative instruments and related hedged items affect a company s financial position, financial performance and cash flows. SFAS No. 161 is effective for financial statements issued for fiscal years and interim periods beginning after November 15, 2008, with early adoption encouraged. The Company has no derivative instruments. Therefore, the Company does not expect the adoption of SFAS No. 161 to impact its financial position and results of operations or cash flows.

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In May 2008, the FASB issued SFAS No. 162, *The Hierarchy of Generally Accepted Accounting Principles* (SFAS No. 162). The current GAAP hierarchy was established by the American Institute of Certified Public Accountants, and faced criticism because it was directed to auditors rather than entities. The issuance of this statement corrects this and makes some other hierarchy changes. This statement is effective 60 days following the Securities and Exchange Commission s approval of the Public Company Accounting Oversight Board amendments to AU Section 411, *The Meaning of Present Fairly in Conformity with Generally Accepted Accounting Principles*. The FASB does not expect that this statement will result in a change to current practice.

3. RESTATEMENT OF FINANCIAL STATEMENTS

Overstock.com, Inc. (the Company) is restating its consolidated financial statements and other financial information for the quarters ended June 30, 2007 and 2008 to correct errors related to the accounting for customer refunds and credits and the accounting for gift cards issued to customers.

The Company s decision to restate the aforementioned financial statements was made as a result of management s identification of errors related to the accounting for customer refunds and credits. On October 20, 2008, management, including the CEO (principal executive officer) and Senior Vice President, Finance (principal financial officer), concluded, and the Board of Directors agreed with management s conclusions that certain refunds and credits issued to customers were not completely and accurately recorded in the consolidated financial statements.

Management subsequently determined, and the Board of Directors adopted management s conclusion, that a portion of the error previously believed to be related to the accounting for customer refunds and credits was actually related to the accounting for gift cards issued to customers and that gift cards issued to customers were not completely and accurately recorded in the consolidated financial statements.

These errors impacted accounts receivable and deferred revenue in the consolidated balance sheet as well as revenue and returns expense (a component of revenue), in the consolidated statement of operations. As a result, revenue, net of returns expense, was misstated in the consolidated statement of operations for the three and six months ended June 30, 2008 and 2007 and accounts receivable and deferred revenue were misstated in the consolidated balance sheet as of June 30, 2008 and December 31, 2007. The amounts of these errors were determined to be material to the consolidated financial statements.

The effect of these error corrections on the Consolidated Results of Operations for the quarter ended June 30, 2008 is to decrease the net loss by $896,000 (including reducing $107,000 of direct revenue and increasing $101,000 of fulfillment partner revenue and increasing $119,000 of direct cost of goods sold and $771,000 of fulfillment cost of goods sold). The effect of these error corrections on the Consolidated Results of Operations for the six months ended June 30, 2008 is to reduce the net loss by $81,000 (including increasing $174,000 of direct revenue and $1.9 million of fulfillment partner revenue and increasing $608,000 of direct cost of goods sold and $3.2 million of fulfillment cost of goods sold).

The effect of these error corrections on the Consolidated Results of Operations for the quarter ended June 30, 2007 is to increase the net loss by $3,000 (including increasing $215,000 of direct revenue and $1.0 million of fulfillment partner revenue and increasing $220,000 of direct cost of goods sold and $1.0 million of fulfillment partner cost of goods sold). The effect of these error corrections on the Consolidated Results of Operations for the six months ended June 30, 2007 is to increase the net loss by $891,000 (including decreasing $133,000 of direct revenue and increasing $222,000 of fulfillment partner revenue and increasing $189,000 of direct cost of goods sold and $791,000 of fulfillment cost of goods sold).

In addition, from the Company s inception through the third quarter of 2007, the Company had recorded revenue based on product ship date. In the fourth quarter of 2007, the Company determined that it should not record revenue until product delivery date because risk of loss transfers to the customer upon delivery and acceptance. In the fourth quarter of 2007, the Company performed a detailed analysis of this error and determined that the impact of this error on any prior annual or interim period was not material and the impact of recording the cumulative effect of the error in the fourth quarter of 2007 was immaterial to the full year. Therefore, the Company recorded the cumulative effect of the error in the fourth quarter of 2007. As the Company is now restating its previously issued consolidated financial statements to correct accounting errors related to customer refunds and credits and gift cards issued to customers, it has reversed the cumulative effect of the correction of the error in the fourth quarter of 2007 and restated all prior periods to reflect revenue recognition based on the product s estimated delivery date in its consolidated financial statements for the years ended December 31, 2007, 2006, 2005, 2004 and 2003. The Company also recorded other miscellaneous adjustments as part of this restatement that were previously identified but determined to be immaterial.

The effect of this error correction relating to product delivery date on the Consolidated Results of Operations for the quarters ended June 30, 2007 is to increase the net loss by $108,000 (including deferring $135,000 of direct revenue and $902,000 of fulfillment partner revenue and deferring a corresponding $85,000 of direct cost of goods sold and $844,000 of fulfillment partner cost of goods sold). The effect of the error correction on Consolidated Results of Operations for the six months ended June 30, 2007 is to decrease the net loss by $75,000 (including recognizing $1.5 million of direct revenue and $2.8 million of fulfillment partner revenue and recognizing a corresponding $2.1 million of direct cost of goods sold and $2.2 million of fulfillment partner cost of goods sold). There was no effect of this error correction on the Consolidated Results of Operations for the three or six months ended June 30, 2008 as this error was corrected by the Company during the fourth quarter of 2007.

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The restated consolidated statements of operations, balance sheets and statements of cash flows have been restated as follows:

Consolidated Statements of Operations

(in thousands, except per share data)

	Quarter Ended June 30, 2008		
	As Previously Reported	Adjustments	As Restated
Revenue			
Direct	$ 39,939	(107)	$ 39,832
Fulfillment partner	148,903	101	149,004
Total revenue	188,842	(6)	188,836
Cost of goods sold			
Direct	34,752	119	34,871
Fulfillment partner	119,985	771	120,756
Total cost of goods sold	154,737	890	155,627
Gross profit	34,105	(896)	33,209
Operating expenses:			
Sales and marketing	14,244		14,244
Technology	15,311		15,311
General and administrative	10,867		10,867
Restructuring			
Total operating expenses	40,422		40,422
Operating loss	(6,317)	(896)	(7,213)
Interest income	740		740
Interest expense	(888)		(888)
Other income, net	2		2
Loss from continuing operations	(6,463)	(896)	(7,359)
Loss from discontinued operations			
Net loss	(6,463)	(896)	(7,359)
Deemed dividend related to redeemable common shares			
Net loss attributable to common shares	$ (6,463)	$ (896)	$ (7,359)
Net loss per common share basic and diluted			
Loss from continuing operations	$ (0.28)	$ (0.04)	$ (0.32)
Loss from discontinued operations	$	$	$
Net loss per common share basic and diluted	$ (0.28)	$ (0.04)	$ (0.32)
Weighted average common shares outstanding basic and diluted	22,750		22,750

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Consolidated Statements of Operations

(in thousands, except per share data)

	Six Months Ended June 30, 2008		
	As Previously Reported	Adjustments	As Restated
Revenue			
Direct	$ 91,422	174	$ 91,596
Fulfillment partner	298,165	1,889	300,054
Total revenue	389,587	2,063	391,650
Cost of goods sold			
Direct	79,066	608	79,674
Fulfillment partner	241,630	3,166	244,796
Total cost of goods sold	320,696	3,774	324,470
Gross profit	68,891	(1,711)	67,180
Operating expenses:			
Sales and marketing	29,263		29,263
Technology	29,827		29,827
General and administrative	20,430		20,430
Restructuring			
Total operating expenses	79,520		79,520
Operating loss	(10,629)	(1,711)	(12,340)
Interest income	2,044		2,044
Interest expense	(1,789)		(1,789)
Other income, net	2		2
Loss from continuing operations	(10,372)	(1,711)	(12,083)
Loss from discontinued operations			
Net loss	(10,372)	(1,711)	(12,083)
Deemed dividend related to redeemable common shares			
Net loss attributable to common shares	$ (10,372)	$ (1,711)	$ (12,083)
Net loss per common share basic and diluted			
Loss from continuing operations	$ (0.45)	$ (0.07)	$ (0.52)
Loss from discontinued operations	$	$	$
Net loss per common share basic and diluted	$ (0.45)	$ (0.07)	$ (0.52)
Weighted average common shares outstanding basic and diluted	23,048		23,048

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Consolidated Statements of Operations

(in thousands, except per share data)

	Quarter Ended June 30, 2007		
	As Previously Reported	**Adjustments**	**As Restated**
Revenue			
Direct	$ 43,578	80	$ 43,658
Fulfillment partner	105,389	124	105,513
Total revenue	148,967	204	149,171
Cost of goods sold			
Direct	36,321	135	36,456
Fulfillment partner	86,343	180	86,523
Total cost of goods sold	122,664	315	122,979
Gross profit	26,303	(111)	26,192
Operating expenses:			
Sales and marketing	7,962		7,962
Technology	15,237		15,237
General and administrative	10,429		10,429
Restructuring	6,194		6,194
Total operating expenses	39,822		39,822
Operating loss	(13,519)	(111)	(13,630)
Interest income	1,078		1,078
Interest expense	(1,027)		(1,027)
Other income, net			
Loss from continuing operations	(13,468)	(111)	(13,579)
Loss from discontinued operations	(300)		(300)
Net loss	(13,768)	(111)	(13,879)
Deemed dividend related to redeemable common shares			
Net loss attributable to common shares	$ (13,768)	$ (111)	$ (13,879)
Net loss per common share basic and diluted			
Loss from continuing operations	$ (0.57)	$ (0.01)	$ (0.58)
Loss from discontinued operations	$ (0.01)	$	$ (0.01)
Net loss per common share basic and diluted	$ (0.58)	$ (0.01)	$ (0.59)
Weighted average common shares outstanding basic and diluted	23,689		23,689

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Consolidated Statements of Operations

(in thousands, except per share data)

	Six Months Ended June 30, 2007		
	As Previously Reported	Adjustments	As Restated
Revenue			
Direct	$ 89,279	1,369	$ 90,648
Fulfillment partner	217,618	3,061	220,689
Total revenue	306,897	4,430	311,327
Cost of goods sold			
Direct	75,641	2,284	77,925
Fulfillment partner	179,638	2,962	182,600
Total cost of goods sold	255,279	5,246	260,525
Gross profit	51,618	(816)	50,802
Operating expenses:			
Sales and marketing	19,246		19,246
Technology	30,210		30,210
General and administrative	21,118		21,118
Restructuring	12,283		12,283
Total operating expenses	82,857		82,857
Operating loss	(31,239)	(816)	(32,055)
Interest income	2,068		2,068
Interest expense	(2,056)		(2,056)
Other income, net			
Loss from continuing operations	(31,227)	(816)	(32,043)
Loss from discontinued operations	(3,924)		(3,924)
Net loss	(35,151)	(816)	(35,967)
Deemed dividend related to redeemable common shares			
Net loss attributable to common shares	$ (35,151)	$ (816)	$ (35,967)
Net loss per common share basic and diluted			
Loss from continuing operations	$ (1.32)	$ (0.03)	$ (1.35)
Loss from discontinued operations	$ (0.17)	$	$ (0.17)
Net loss per common share basic and diluted	$ (1.49)	$ (0.03)	$ (1.52)
Weighted average common shares outstanding basic and diluted	23,642		23,642

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Consolidated Balance Sheets

(in thousands)

	As of June 30, 2008		
	As Previously Reported	**Adjustments**	**As Restated**
Assets			
Current assets:			
Cash and cash equivalents	$ 56,679	$	$ 56,679
Marketable securities	30,020		30,020
Cash, cash equivalents and marketable securities	86,699		86,699
Accounts receivable, net	15,186	(5,209)	9,977
Note receivable	250		250
Inventories, net	14,036		14,036
Prepaid inventory	2,648		2,648
Prepaid expenses	10,481		10,481
Total current assets	129,300	(5,209)	124,091
Property and equipment, net	21,318		21,318
Goodwill	2,784		2,784
Other long-term assets, net	30		30
Notes receivable	4,453		4,453
Total assets	$ 157,885	$ (5,209)	$ 152,676
Liabilities, Redeemable Securities and Stockholders Equity			
Current liabilities:			
Accounts payable	$ 31,217		$ 31,217
Accrued liabilities	24,248	274	24,522
Deferred revenue	15,417	4,846	20,263
Capital lease obligations, current			
Total current liabilities	70,882	5,120	76,002
Other long-term liabilities	2,975		2,975
Convertible senior notes	75,795		75,795
Total liabilities	149,652	5,120	154,772
Stockholders equity:			
Preferred stock, $0.0001 par value, 5,000 shares authorized, no shares issued and outstanding as of December 31, 2007 and Jun e 30, 2008			
Common stock, $0.0001 par value, 100,000 shares authorized, 25,423 and 25,496 shares issued as of December 31, 2007 and June 30, 2008, respectively	2		2
Additional paid-in capital	337,659		337,659
Accumulated deficit	(254,081)	(10,329)	(264,410)
Treasury stock, 1,605 and 2,713 shares at cost as of December 31, 2007 and June 30, 2008, respectively	(75,218)		(75,218)
Accumulated other comprehensive loss	(129)		(129)
Total stockholders equity	8,233	(10,329)	(2,096)

Total liabilities, redeemable securities and stockholders equity	$	157,885	$	(5,209)	$	152,676

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Consolidated Balance Sheets

(in thousands)

	As of December 31, 2007		
	As Previously Reported	Adjustments	As Restated
Assets			
Current assets:			
Cash and cash equivalents	$ 101,394	$	$ 101,394
Marketable securities	46,000		46,000
Cash, cash equivalents and marketable securities	147,394		147,394
Accounts receivable, net	12,304	(1,096)	11,208
Note receivable	1,506		1,506
Inventories, net	25,933	(290)	25,643
Prepaid inventory	3,572		3,572
Prepaid expenses	7,572		7,572
Total current assets	198,281	(1,386)	196,895
Property and equipment, net	27,197		27,197
Goodwill	2,784		2,784
Other long-term assets, net	86		86
Notes receivable	4,181		4,181
Total assets	232,529	$ (1,386)	$ 231,143
Liabilities, Redeemable Securities and Stockholders Equity			
Current liabilities:			
Accounts payable	$ 70,648	$ (290)	$ 70,358
Accrued liabilities	35,241	1,914	37,155
Deferred revenue	17,357	5,608	22,965
Capital lease obligations, current	3,796		3,796
Total current liabilities	127,042	7,232	134,274
Other long-term liabilities	3,034		3,034
Convertible senior notes	75,623		75,623
Total liabilities	205,699	7,232	212,931
Stockholders equity:			
Preferred stock, $0.0001 par value, 5,000 shares authorized, no shares issued and outstanding as of December 31, 2007			
Common stock, $0.0001 par value, 100,000 shares authorized, 25,423 shares issued as of December 31, 2007	2		2
Additional paid-in capital	333,909		333,909
Accumulated deficit	(243,709)	(8,618)	(252,327)
Treasury stock, 1,605 shares at cost as of December 31, 2004	(63,278)		(63,278)
Accumulated other comprehensive loss	(94)		(94)
Total stockholders equity	26,830	(8,618)	18,212
Total liabilities, redeemable securities and stockholders equity	$ 232,529	$ (1,386)	$ 231,143

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Overstock.com, Inc.

Consolidated Statements of Cash Flows (unaudited)

(in thousands)

	Three months ended 30, June 2007			Three months ended June 30, 2008		
	As Reported	**Adjustments**	**As Restated**	**As Reported**	**Adjustments**	**As Restated**
Cash flows from operating activities of continuing operations:						
Net loss	$ (13,768)	$ (111)	$ (13,879)	$ (6,463)	(896)	$ (7,359)
Adjustments to reconcile net loss to cash provided by (used in) operating activities of continuing operations:						
Loss from discontinued operations	300		300			
Depreciation and amortization	7,974		7,974	5,887		5,887
Loss on disposition of property and equipment	1		1			
Stock-based compensation to employees and directors	1,137		1,137	1,068		1,068
Stock-based compensation to consultants for services	135		135	329		329
Stock-based compensation for performance share plan				150		150
Issuance of common stock from treasury for 401(k) matching contribution	113		113			
Amortization of debt discount and deferred financing fees	86		86	85		85
Asset impairment and depreciation (other non cash restructuring)	2,169		2,169			
Restructuring charges	4,025		4,025			
Notes receivable accretion				(136)		(136)
Changes in operating assets and liabilities, net of effect of discontinued operations:						
Accounts receivable, net	(431)	1,044	613	(2,144)	1,444	(700)
Inventories, net	1,237	(85)	1,152	3,934		3,934
Prepaid inventory	477		477	(80)		(80)
Prepaid expenses	700		700	(363)		(363)
Other long-term assets, net	176		176			
Accounts payable	5,467	(800)	4,667	(1,622)		(1,622)
Accrued liabilities	4,941	(816)	4,125	428	(392)	36
Deferred revenue	200	768	968	(771)	(156)	(927)
Other long-term liabilities				147		147
Net cash provided by (used in) operating activities of continuing operations	14,939		14,939	449		449
Cash flows from investing activities of continuing operations:						
Purchases marketable securities	(21,381)		(21,381)	(18,823)		(18,823)
Sales and maturities of marketable securities	3,400		3,400	18,428		18,428
Expenditures for property and equipment	(1,439)		(1,439)	(5,136)		(5,136)
Proceeds from the sale of discontinued operations, net of cash transferred	9,892		9,892			
Collection of note receivable	753		753	754		754
Decrease in cash resulting from de-consolidation of variable interest entity						
	(8,775)		(8,775)	(4,777)		(4,777)

Net cash (used in) provided by investing activities of continuing operations								
Cash flows from financing activities of continuing operations:								
Payments on capital lease obligations		(4)			(4)	(2)		(2)
Drawdown on line of credit						1,128		1,128
Payments on line of credit						(1,128)		(1,128)
Issuance of common stock in offerings, net of issuance costs								
Purchase of treasury stock								
Exercise of stock options		768			768	924		924
Net provided by (used in) financing activities of continuing operations		764			764	922		922
Effect of exchange rate changes on cash		36			36	(9)		(9)
Cash (used in) provided by operating activities from discontinued operations		(614)			(614)			
Cash used in investing activities of discontinued operations								
Net increase (decrease) in cash and cash equivalents		6,350			6,350	(3,415)		(3,415)
Change in cash and cash equivalents from discontinued operations		614			614			
Cash and cash equivalents, beginning of period		68,080			68,080	60,094		60,094
Cash and cash equivalents, end of period	$	75,044		$	75,044	$ 56,679	$	56,679

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Overstock.com, Inc.

Consolidated Statements of Cash Flows (unaudited)

(in thousands)

	Six months ended June 30, 2007			Six months ended June 30, 2008		
	As Reported	**Adjustments**	**As Restated**	**As Reported**	**Adjustments**	**As Restated**
Cash flows from operating activities of continuing operations:						
Net loss	$ (35,151)	(816)	$ (35,967)	$ (10,372)	(1,711)	$ (12,083)
Adjustments to reconcile net loss to cash provided by (used in) operating activities of continuing operations:						
Loss from discontinued operations	3,924		3,924			
Depreciation and amortization	15,745		15,745	12,384		12,384
Loss on disposition of property and equipment	1		1			
Stock-based compensation to employees and directors	2,210		2,210	2,252		2,252
Stock-based compensation to consultants for services	140		140	315		315
Stock-based compensation for performance share plan				300		300
Issuance of common stock from treasury for 401(k) matching contribution	715		715	19		19
Amortization of debt discount and deferred financing fees	172		172	172		172
Asset impairment and depreciation (other non cash restructuring)	2,169		2,169			
Restructuring charges	10,114		10,114			
Notes receivable accretion				(272)		(272)
Changes in operating assets and liabilities, net of effect of discontinued operations:						
Accounts receivable, net	3,396	5,301	8,697	(2,882)	4,113	1,231
Inventories, net	4,849	2,095	6,944	11,897	(290)	11,607
Prepaid inventory	117		117	924		924
Prepaid expenses	(1,262)		(1,262)	(2,909)		(2,909)
Other long-term assets, net	266		266			
Accounts payable	(32,592)	2,171	(30,421)	(39,431)	290	(39,141)
Accrued liabilities	(18,768)	(396)	(19,164)	(10,993)	(1,640)	(12,633)
Deferred revenue	654	(8,355)	(7,701)	(1,940)	(762)	(2,702)
Other long-term liabilities				(59)		(59)
Net cash provided by (used in) operating activities of continuing operations	(43,301)		(43,301)	(40,595)		(40,595)
Cash flows from investing activities of continuing operations:						
Purchases marketable securities	(21,381)		(21,381)	(25,362)		(25,362)
Sales and maturities of marketable securities	3,400		3,400	41,339		41,339
Expenditures for property and equipment	(1,916)		(1,916)	(6,449)		(6,449)
Proceeds from the sale of discontinued operations, net of cash transferred	9,892		9,892			
Collection of note receivable	4,694		4,694	1,256		1,256
Decrease in cash resulting from de-consolidation of variable interest entity						
	(5,311)		(5,311)	10,784		10,784

Net cash (used in) provided by investing activities of continuing operations	