IMMEDIATEK INC
Form 10QSB
November 15, 2004

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U.S. SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Form 10-QSB

(Mark One)

x Quarterly Report under Section 13 or 15(d) of the Securities Exchange Act of 1934

For the quarterly period ended September 30, 2004.

o Transition Report under Section 13 or 15(d)of the Exchange Act For the Transition Period from __________ to __________

Commission File Number: 000-26073

Immediatek, Inc.

(Exact name of small business issuer as specified in its charter)

Nevada	86-0881193
(State or other jurisdiction of incorporation)	(I.R.S. Employer Identification)
2435 N. Central Expressway Suite 1610, Richardson, TX	75080
(Address of principal executive offices)	(Zip Code)

Registrant s telephone number, including area code: (972) 852-2876

Check whether the issuer (1) filed all reports required to be filed by Section 13 or 15(d) of the Exchange Act of 1934 during the past 12 months (or 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 o

APPLICABLE ONLY TO ISSUERS INVOLVED IN BANKRUPTCY PROCEEDING DURING THE PRECEDING FIVE YEARS

Check whether the Registrant filed all documents and reports required to be filed by Section 12, 13 or 15(d) of the

Exchange Act after the distribution of securities under a plan confirmed by a court.

Yes o No o

APPLICABLE ONLY TO CORPORATE ISSUERS

Common Stock, $0.001 par value per share, 500,000,000 shares authorized, as of September 30, 2004, the issuer had 27,941,755 shares of common stock outstanding.

Traditional Small Business Disclosure Format (check one)

Yes o No x

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PART I. FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS AND EXHIBITS

Immediatek, Inc
Balance Sheet
(unaudited)

	September 30, 2004
Assets	
Current assets	
Cash and cash equivalents	$ 4,621
Accounts receivable	25,088
Prepaid expenses	9,126
Total current assets	38,836
Fixed assets, net	306,238
Total fixed assets	306,238
Other assets	
Intellectual property	68,701
Goodwill	324,142
Deposits held	13,760
Total other assets	406,603
Total assets	$ 751,677
Liabilities and Stockholders Equity	
Current liabilities	
Accounts payable	$ 102,262
Accrued liabilities	228,842
Notes payable related party	318,000

Total current liabilities		649,104
Stockholders equity:		
Common stock, $0.001 par value, 500,000,000 shares authorized, 27,941,655 shares issued and outstanding		27,942
Additional paid-in-capital		5,196,756
Accumulated (deficit)		(5,122,125)
		102,573
	$	751,677

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

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Immediatek, Inc
Statements of Operations
(unaudited)

	Three months ended September 30,		Nine months ended September 30,	
	2004	**2003**	**2004**	**2003**
Revenue	$ 99,299	$ 20,874	$ 721,988	$ 60,887
Cost of sales	189,463		563,513	716
Gross profit	(90,165)	20,874	158,474	60,171
Expenses:				
General and administrative	320,063	101,452	785,809	184,739
General and administrative related party			37,263	
Depreciation	19,398	42	48,694	84
Consulting fees	36,147	10,000	146,294	78,400
Compensation expenses related party				2,335,080
Interest	2,500		5,000	
Marketing	12,713	2,058	92,455	2,058
Research and development	395	3,872	50,500	11,747
Salaries and wages	102,279	10,280	304,321	10,280
Officers salaries	48,585	37,113	119,161	71,615
Total expenses	542,080	164,817	1,589,495	2,694,003
Net (loss) from operations	(632,245)	(143,943)	(1,431,021)	(2,633,832)
Other (income):				(437)
Net (loss)	$ (632,245)	$ (143,943)	$ (1,431,021)	$ (2,633,832)
Weighted average number of Common shares outstanding basic and fully diluted	27,941,755	20,857,080	19,386,457	11,616,382
	$ (0.02)	$ (0.01)	$ (0.07)	$ (0.23)

Net (loss per share basic and fully diluted				

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

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Immediatek, Inc.
Statements of Cash Flow
(unaudited)

	Nine months ended September 30,	
	2004	**2003**
Cash flows from operating activities		
Net (loss)	$(1,431,021)	$(2,633,395)
Adjustment to reconcile net (loss) to net cash (used) by operating activities:		
Depreciation	48,694	84
Shares issued for services	110,146	78,400
Shares issued as compensation related		2,335,080
Changes in operating assets and liabilities:		
(increase) decrease in accounts receivable	(23,441)	(1,205)
(Increase) decrease in prepaid expenses	11,332	(7,605)
(Increase) in other assets	(2,660)	
Increase (decrease) in accounts payable	(8,665)	46,092
Increase (decrease) in accrued liabilities	216,206	
Net cash (used) by operating activities	(1,079,410)	(94,768)
Cash flows from investing activities		
Cash received from DiscLive acquisition	20,662	
Purchase of fixed assets	(30,616)	(3,129)
Net cash (used) by investing activities	(9,954)	(3,129)
Cash flows from financing activities		
Common stock issuances	857,423	
Subscriptions payable		42,000
Convertible debt		107,500
Payments on notes payable		(791)
Proceeds from notes payable	118,000	70,000
Net cash provided by financing activities	975,423	218,709
Net increase (decrease) in cash and equivalents	(113,941)	33,031
Cash and equivalents beginning	118,562	4,845

Cash and equivalents ending	$ 4,621	$ 37,876
Supplemental disclosures:		
Interest paid	$ 5,000	$
Income taxes paid	$	$

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

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Immediatek, Inc.
Consolidated Notes To Financial Statements

Note 1 Basis of Presentation

The consolidated interim financial statements included herein, presented in accordance with United States generally accepted accounting principles and stated in US dollars, have been prepared by the Company, without audit, pursuant to the rules and regulations of the Securities and Exchange Commission. Certain information and footnote disclosures normally included in financial statements prepared in accordance with generally accepted accounting principles have been condensed or omitted pursuant to such rules and regulations, although the Company believes that the disclosures are adequate to make the information presented not misleading.

These statements reflect all adjustments, consisting of normal recurring adjustments, which, in the opinion of management, are necessary for fair presentation of the information contained therein. It is suggested that these consolidated interim financial statements be read in conjunction with the financial statements of the Company for the year ended December 31, 2003 and Consolidated Notes to Financial Statements thereto included in the Company s 10-KSB annual report. The Company follows the same accounting policies in the preparation of interim reports.

Results of operations for the interim periods are not indicative of annual results.

Note 2 Material Business Combination

On April 9, 2004, the Company completed the purchase of DiscLive, Inc. a privately held company that secures contracts with various music artists to record live concert performances, by acquiring all of the outstanding capital stock for a total purchase price of $600,000. DiscLive, Inc. s results of operations have been included in the consolidated financial statements since the date of acquisition

The aggregate purchase price consisted of 1,666,667 shares of the Company s common stock valued at $600,000. The value of the 1,666,667 common shares issued was determined based on the average market price of the Company s common shares at the time of acquisition. The company allocated $324,142 of the acquisition price to goodwill and the balance of $275,858 to assets and liabilities.

The following (unaudited) pro forma consolidated results of operations have been prepared as if the acquisition of DiscLive, Inc. had occurred at January 1, 2004:

	Nine months ended September 30, 2004	Nine months ended September 30, 2003
Revenue, net	$ 807,172	$ 60,887
Expenses:		
General and administrative	1,988,055	287,224
General and administrative related party	37,263	0
Depreciation expense	49,401	84

Compensation related party	277,012	2,406,695
Total expenses:	2,351,731	2,694,003
Other income:	(30)	(437)
Net (loss):	(1,544,529)	(2,633,395)
Net (loss) per share-basic and fully diluted	(.06)	(.23)

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The pro forma information is presented for informational purposes only and is not necessarily indicative of the results of operations that actually would have been achieved had the acquisition been consummated as of that time, nor is it intended to be a projection of future results.

Note 3 Goodwill

Management periodically reviews the carrying value of acquired intangible assets to determine whether impairment may exist. The Company considers relevant cash flow and profitability information, including estimated future operating results in assessing whether the carrying value of the intangible can be recovered. If the Company determines that the carrying value will not be recovered from undiscounted future cash flows of the acquired business, the Company considers such carrying value as impaired and reduces them by a charge to operations in the amount of the impairment.

Note 4 Going concern

The Company s financial statements are prepared using the generally accepted accounting principles applicable to a going concern, which contemplates the realization of assets and liquidation of liabilities in the normal course of business. However, the Company has not generated significant revenues. In order to obtain the necessary capital, the Company has raised funds via private placement offering. If the securities offering does not provide sufficient capital, some of the shareholders of the Company have agreed to provide sufficient funds as a loan over the next twelve-month period. However, the Company is dependent upon its ability to secure equity and/or debt financing and there are no assurances that the Company will be successful, without sufficient financing it would be unlikely for the Company to continue as a going concern.

Note 5 Fixed assets

The Company purchased $11,518 worth of fixed assets during the period ended September 30, 2004. Depreciation expense totaled $48,694 and $84 for the nine months ended September 30, 2004 and 2003, respectively.

Note 6 Subscriptions payable

During the period ended September 30, 2004, the Company issued 1,017,667 shares of common stock to nine individual investors for all outstanding subscriptions.

As of September 30, 2004 no other subscriptions have been issued.

Note 7 Stockholders equity

The Company is authorized to issue 500,000,000 shares of $0.001 par value common stock.

On April 9, 2004, the Company acquired all the outstanding shares of DiscLive, Inc., a Delaware corporation, in exchange for 1,666,667 shares of the Company s $0.001 par value common stock.

On May 20, 2004, the company issued 63,333 shares of its $0.001 par value common stock to a certain note holder who elected to convert their Consolidated Notes to Financial Statements totaling $9,500 into Company equity.

On May 20, 2004, the company issued 10,000 shares of its $0.001 par value common stock to a company to acquire equipment valued at $3,000.

On May 20, 2004,the Company issued 200,153 shares of its $0.001 par value common stock to an individual for consulting services valued at $60,046, the fair market value of the underlying shares.

On May 20, 2004,the Company issued 50,000 shares of its $0.001 par value common stock to an individual for consulting services valued at $15,000, the fair market value of the underlying shares.

On May 20, 2004, the Company issued 10,417 shares of its $0.001 par value common stock to an individual who for cash in the amount of $1,563.

On May 20, 2004, the Company issued 1,668,201 shares of its $0.001 par value common stock for cash in the amount of $500,460 pursuant to a regulation 506 offering.

On May 20, 2004, the Company issued 1,017,666 shares of its $0.001 par value common stock pursuant to outstanding subscription agreements pursuant to a regulation 506 offering.

On June 25, 2004, the Company issued 130,000 shares of its $0.001 par value common stock for consulting services valued at $35,100, the fair market value of the underlying shares.

There were no other issuances of common stock during the three months ended September 30, 2003.

Note 8 Related party transactions

During the nine month period ended September 30, 2004, the Company paid additional compensation to officers in the amount of $37,263.

During the nine months ended September 30, 2004, a shareholder of the Company elected to convert $9,500 of his loan to 63,333 shares of the Company s $0.001 par value common stock. The Company owed $200,000 in convertible debt to a shareholder as of September 30, 2004.

During the nine month period ending September 30, shareholders of the Company executed a loan in the amount of $118,000 due on demand. No repayments have been made and as of September 30, 2004 the loan balance was $118,000.

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Item 2. MANAGEMENT S DISCUSSION AND ANALYSIS OR PLAN OF OPERATIONS

Immediatek was formerly named ModernGroove Entertainment, Inc. On November 23, 2002, ModernGroove Entertainment, Inc., a Nevada corporation, an OTCBB-listed company, entered into a merger agreement with Immediatek, Inc., a private company duly incorporated in accordance with the laws of the State of Texas. Immediatek, a privately owned company, was founded in 2001 by Zach Bair. On December 9, 2002, ModernGroove Entertainment, Inc. changed its name to Immediatek, Inc. (ITEK)

On February 27, 2003, Immediatek, Inc. announced that it was acquiring key assets from Zach Bair and Paul Marin, individually. These assets represent, breakthrough technology enabling Internet music fans to download standard MP3 files directly to their CD burners while simultaneously protecting the artists copyrights. Acquisition of these assets, include: the CD burning software, agreements with over 330 independent labels, 1,200 artists, and 30,000 music tracks for its www.TwoBigToes.com website and core NetBurn (tm) technology

In April 2004 we acquired all the issued and outstanding shares of DiscLive, Inc. and issued 1,666,667 shares of our common stock to the stockholders of DiscLive in a share exchange. DiscLive is a company, which records live concerts, manufactures and sells CD recordings of the event within minutes of the concert s ending. Management does not believe the company will generate any significant profit in the near future, as developmental and marketing and administrative costs will most likely exceed any anticipated revenues.

Going Concern The Company experienced operating losses for the period ended September 30, 2004. The financial statements have been prepared assuming the Company will continue to operate as a going concern, which contemplates the realization of assets and the settlement of liabilities in the normal course of business. No adjustment has been made to the recorded amount of assets or the recorded amount or classification of liabilities which would be required if the Company were unable to continue its operations. (See Financial Footnote 3.)

Plan of Operation

Management does not believe that the Company will be able to generate significant profit during the coming year, unless the company can expand its customer base for its NetBurn products and it can operate its new wholly owned subsidiary, DiscLive, Inc. at a profit. NetBurn is a patent-pending digital delivery system which allows web and NetBurn Station users to download and burn fully licensed music tracks by utilizing a simple single-click interface, while at the same time protecting the copyright holders who own the material. DiscLive is a company, which records live concerts, manufactures and sells CD recordings of the event within minutes of the concert s ending. Management does not believe the company will generate any significant profit in the near future, as developmental and marketing and administrative costs will most likely exceed any anticipated revenues.

Results of Operations

During the nine months ended September 30, 2004, the Company generated $721,988 in revenues. This compares to $60,887in revenues for the same period last year. In its most recent nine month operating period ended September 30, 2004, the Company experienced a net loss of $1,589,495 versus a net loss of $2,694,003 for the same period last year. The bulk of this loss came from cost of sales of 563,513; general and administrative expenses of $823,072; and Salaries and wages of $ 304,321. During the first nine months, the Company continued to seek new strategies for marketing its business plan.

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The major components to expenses faced by the Company in its day-to-day operations includes developing software, databases, marketing its internet site, auditor fees, legal fees, and general administrative expenses. If the Company becomes profitable, the company will access salaries and adding additional personnel to the payroll. Management intends to continue to minimize costs until such a time, in its discretion, it believes expansion would be prudent. One element in making this determination is positive cash flow on a quarterly basis. If or when the company is successful in achieving this quarterly positive cash flow, it is likely that the company will consider expanding its personnel, which will increase costs.

Liquidity and Capital Resources

The Company is authorized to issue five hundred million (500,000,000) shares of its $0.001 par value common stock.

During the first nine months, the Company sold 2,926,617 shares of its $0.001 par value common stock to eleven accredited investors for the sum of $857,423.

The Company could be required to secure additional financing to fully implement its entire business plan. There are no guarantees that such financing will be available to the Company, or if available, will be on terms and conditions satisfactory to management.

The Company owed $200,000 in convertible debt to a shareholder; the note bears an interest rate of 5% per annum and is due January 31, 2005. During the three months ending September 30, two shareholders of the Company executed a loan in the amount of $118,000 due on demand. Additionally, the Company has and may in the future invest in short-term investments from time to time. There can be no assurance that these investments will result in profit or loss.

Since inception, we have utilized the proceeds from a number of private sales of our equity securities, the exercise of options and warrants to meet our working capital requirements.

Our operations generated losses in 2003 and continue to generate losses in 2004. Our cash decreased $113,941 during the nine months ended September 30, 2004 with operating activities using $771,530 of cash. We funded operations primarily through cash on hand from borrowings and equity offerings over the last couple of years. No assurance can be given that such activities will continue to be available to provide funding to us. Our business plan for 2004 is predicated principally upon the successful marketing of our music software products and sales of concert CD s from our new wholly owned subsidiary, DiscLive, Inc. We anticipate that our existing working capital resources and revenues from operations will not be adequate to satisfy our funding requirements in 2004.

Our working capital requirements will depend upon many factors, including the extent and timing of our product sales, our operating results, the status of competitive products, and actual expenditures and revenues compared to our business plan. We are currently experiencing declining liquidity, losses from operations and negative cash flows, which make it difficult for us to meet our current cash requirements, including payments to vendors, and may jeopardize our ability to continue as a going concern. We intend to address our liquidity problems by controlling costs, seeking additional funding (through capital raising transactions and business alliances) and maintaining focus on revenues and collections.

If our losses continue, we will have to obtain funds to meet our cash requirements through business alliances, such as strategic or financial transactions with third parties, the sale of securities or other financing arrangements, or we may be required to curtail our operations, seek a merger partner, or seek protection under federal bankruptcy laws. Any of the foregoing may be on terms that are unfavorable to us or disadvantageous to existing stockholders. In addition, no assurance may be given that we will be successful in raising additional funds or entering into business alliances.

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The Company could be required to secure additional financing to fully implement its entire business plan. There are no guarantees that such financing will be available to the Company, or if available, will be on terms and conditions satisfactory to management.

The Company does not have any preliminary agreements or understandings between the company and its stockholders/officers and directors with respect to loans or financing to operate the company. The Company currently has no arrangements or commitments for accounts and accounts receivable financing. There can be no assurance that any such financing can be obtained or, if obtained, that it will be on reasonable terms.

The Company could be required to secure additional financing to fully implement its entire business plan. There are no guarantees that such financing will be available to the Company, or, if available, will be on terms and conditions satisfactory to management.

Our auditors have included an explanatory paragraph in their audit opinion with respect to our consolidated financial statements at December 31, 2003. The paragraph states that our recurring losses from operations and resulting continued dependence on access to external financing raise substantial doubts about our ability to continue as a going concern. Furthermore, the factors leading to and the existence of the explanatory paragraph may adversely affect our relationship with customers and suppliers and have an adverse effect on our ability to obtain financing.

Our business plan for 2004 is predicated principally upon the successful marketing of our software products and the DiscLive product. We anticipate that our existing working capital resources and revenues from operations may not be adequate to satisfy our funding requirements through 2004.

If our losses continue, we will have to obtain funds to meet our cash requirements through business alliances, such as strategic or financial transactions with third parties, the sale of securities or other financing arrangements, or we may be required to curtail our operations, seek a merger partner, or seek protection under federal bankruptcy laws. Any of the foregoing may be on terms that are unfavorable to us or disadvantageous to existing stockholders. In addition, no assurance may be given that we will be successful in raising additional funds or entering into business alliances.

Employees

The Company currently has nine full time employees and three part time employees. The Company has no material commitments for capital expenditures nor does it foresee the need for such expenditures over the next year.

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Market For Company s Common Stock

Market Information

On September 14, 1999, the Company s common stock was initially cleared for trading on the OTC Bulletin Board system under the symbol BRRT. The Company subsequently changed its name to ModernGroove Entertainment, Inc., and its trading symbol to: MODG. On January 7, 2003, the Company changed its name to Immediatek, Inc. and its trading symbol to IMDK. On February 25, 2003, the Company initiated a 1 for 250 reverse stock split and changed it trading symbol to ITEK. A very limited market exists for the trading of the Company s common stock.

As of September 30, 2004 there were approximately 4,119,199 warrants to purchase the Company s common stock. The following chart reflects the number of warrants, exercise price and expiration date for the warrants outstanding

# of Warrants	Exercise Price	Expiration
3,002,302	$ 0.20	March 22, 2007
300,230	$ 0.20	March 22, 2007
200,000	$ 1.00	March 20, 2005
166,667	$ 0.30	February 19,2006
450,000	$ 0.65	April 14, 2006

The Warrants may not be sold or transferred without complying with Rule 144 in the absence of an effective registration or other compliance under the Securities Act. There is currently no Common Stock, which is subject to outstanding options to purchase, or securities convertible into, the Company s common stock.

Other than affiliates, there is currently no common stock of the Company which could be sold under Rule 144 under the Securities Act of 1933 as amended.

Dividends

Holders of common stock are entitled to receive such dividends as the board of directors may from time to time declare out of funds legally available for the payment of dividends. No dividends have been paid on our common stock, and we do not anticipate paying any dividends on our common stock in the foreseeable future.

Item 3. Controls and Procedures

Within the 90 days prior to the date of this report, we carried out an evaluation, under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures pursuant to Securities Exchange Act Rule 13a-14. Based upon that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures are effective in timely alerting them to material information relating to us (including our consolidated subsidiaries) required to be included in our periodic SEC filings. There have been no significant changes in our internal controls or in other factors that could significantly affect internal controls subsequent to the date of their evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

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PART II OTHER INFORMATION

ITEM 1. Legal Proceedings

There are currently no material legal proceedings pending.

ITEM 2. Changes in Securities and Use of Proceeds

We have initiated a Regulation D, Rule 506 private placement whereby the company is offering up to 2,000,000 shares of its common stock at $0.30 per share for a total offering of up to $600,000. As of September 30, 2004 we have sold 2,926,617 shares for the sum of $857,423 including the shares sold in the above described private placement and an additional 926,617 shares to certain accredited investors.

ITEM 3. Defaults upon Senior Securities

None.

ITEM 4. Submission of Matters to a Vote of Security Holders

During the quarter ended September 30, 2004, no matters were submitted to the Company s security holders.

ITEM 5. Other Information

On April 9, 2004 Immediatek, Inc. entered into an Acquisition Agreement to acquire all of the issued and outstanding capital stock of DiscLive, Inc., a Delaware corporation. In exchange for the DiscLive capital stock we gave each of the DiscLive stockholders their pro rata share of 1,666,667 shares of our common stock. As a result of the acquisition, DiscLive became a wholly owned subsidiary of Immediatek.

DiscLive provides a service to concert goers whereby DiscLive contracts with an artist or recording company, records a live concert and then offers for sale limited addition recordings of the concert within minutes after the concert has ended.

ITEM 6. Exhibits and Reports on Form 8-K

(a) Exhibits

Exhibit Number	Title of Document
31.1	Chief Executive Officer-Section 302 Certification pursuant to Section 302 Sarbanes-Oxley Act.
31.2	Chief Financial Officer Section 302 Certification pursuant to Section 302 Sarbanes-Oxley Act
32.1	Chief Executive Officer-Section 906 Certification pursuant to Section 902 Sarbane-Oxley Act.
32.2	

Chief Financial Officer Section 906 Certification pursuant to Section 902 of the Sarbanes-Oxley Act

(b) Reports on Form 8-K

1. Report on Form 8K/A filed with the Commission on June 21, 2004 concerning items 2, and 7.

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SIGNATURES

In accordance with Section 12 of the Securities Exchange Act of 1934, the registrant caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized.

	Immediatek, Inc. (Registrant)
Dated: November 15, 2004	By: /s/ Zach Bair Zach Bair Chairman of the Board President, Secretary Chief Executive Officer

In accordance with the Exchange Act, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

	IMMEDIATEK, INC.
Date: November 15, 2004	By: /s/ Zach Bair Zach Bair Chief Executive Officer