

Orchard Enterprises, Inc.
Form 10-Q
May 15, 2009

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

FORM 10-Q

(Mark One)

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

For the Quarterly Period Ended March 31, 2009

OR

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

**For the Transition Period from to
(Commission File Number) 000-51761**

THE ORCHARD ENTERPRISES, INC.

(Exact Name of Registrant As Specified in Its Charter)

Delaware
(State or Other Jurisdiction of
Incorporation)

20-3365526
(IRS Employer
Identification No.)

**23 East 4th Street, 3rd Floor
New York, NY**

(Address of Principal Executive Offices)

10003

(Zip Code)

(212) 201-9280

(Registrant's Telephone Number, Including Area Code)

Not Applicable

(Former Name, Former Address and Former Fiscal Year, if Changed Since Last Report)

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 at least the past 90 days. Yes No

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

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

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

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

APPLICABLE ONLY TO CORPORATE ISSUERS

The number of shares of common stock, par value \$0.01 per share, outstanding as of May 12, 2009 was 6,276,609.

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TABLE OF CONTENTS**PART I. FINANCIAL INFORMATION****Item 1. Financial Statements****THE ORCHARD ENTERPRISES, INC.****CONDENSED CONSOLIDATED BALANCE SHEETS**

	March 31, 2009 (Unaudited)	December 31, 2008
ASSETS		
Current assets:		
Cash and cash equivalents	\$5,365,561	\$4,521,027
Accounts receivable net	11,187,015	12,576,934
Inventory	125,839	133,404
Royalty advances	2,290,966	2,720,119
Prepaid expenses and other current assets	975,665	980,226
Total current assets	19,945,046	20,931,710
Royalty advances, less current portion	2,483,585	2,152,169
Music and audio content net	5,344,876	5,604,500
Property and equipment net	2,627,706	1,609,467
Intangible assets net	878,208	907,472
Goodwill	26,463,900	26,463,900
Other assets	415,988	410,284
Total assets	\$58,159,309	\$58,079,502
LIABILITIES, REDEEMABLE PREFERRED STOCK, AND STOCKHOLDERS EQUITY		
Current liabilities:		
Accounts payable	\$1,693,695	\$907,661
Accrued royalties	18,279,268	17,756,902
Accrued expenses	1,176,006	1,223,717
Deferred revenue	1,275,902	1,534,702
Total current liabilities	22,424,871	21,422,982
Commitments and Contingencies		
Redeemable preferred stock:		
Series A convertible preferred stock, \$0.01 par value 448,833 shares designated and issued; 448,707 shares outstanding; liquidation preference of \$24,992,980 as of March 31, 2009 and December 31, 2008	7,015,276	7,015,276
Stockholders equity:		
Preferred stock, \$0.01 par value 1,000,000 shares authorized and 448,833 shares designated; 551,167 shares undesignated; no undesignated shares issued and outstanding as of March 31, 2009 and		

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December 31, 2008

Common stock, \$0.01 par value 30,000,000 shares authorized; 6,276,609 shares issued and outstanding as of March 31, 2009 and December 31, 2008	62,766	62,766
Additional paid-in capital	56,126,130	55,926,156
Accumulated deficit	(27,405,745)	(26,347,793)
Accumulated other comprehensive (loss) income	(63,989)	115
Total stockholders equity	28,719,162	29,641,244
Total liabilities, redeemable preferred stock, and stockholders equity	\$58,159,309	\$58,079,502

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

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THE ORCHARD ENTERPRISES, INC.
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS

	For the Three Months Ended March 31,	
	2009	2008
	(Unaudited)	
Revenues	\$ 15,327,976	\$ 13,155,770
Cost of revenues	11,077,508	9,602,680
Gross profit	4,250,468	3,553,090
Operating expenses	5,682,986	4,723,252
Loss from operations	(1,432,518)	(1,170,162)
Other income (expense):		
Interest income	2,939	84,700
Interest expense	(12,088)	
Loss from disposal of property and equipment		(21,767)
Other income	383,715	2,844
Total other income	374,566	65,777
Net loss	\$(1,057,952)	\$(1,104,385)
Loss per share basic and diluted	\$(0.17)	\$(0.18)
Weighted average shares outstanding basic and diluted	6,093,416	6,197,325

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

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THE ORCHARD ENTERPRISES, INC.

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS

	For the Three Months Ended March 31,	
	2009	2008
	(Unaudited)	
Cash flows from operating activities:		
Net loss	\$(1,057,952)	\$(1,104,385)
Adjustments to reconcile net loss to net cash provided by operating activities:		
Depreciation and amortization	451,627	302,752
Bad debt expense	200,000	65,363
Loss on disposition and writedowns of property and equipment		21,492
Share-based compensation	199,974	131,534
Changes in operating assets and liabilities:		
Accounts receivable	1,189,919	(274,113)
Inventory	7,565	
Royalty advances	97,737	(1,021,223)
Prepaid expenses and other current assets	4,561	117,563
Other assets	(89,037)	39,673
Accounts payable	786,034	(97,234)
Accrued royalties	522,366	2,425,340
Accrued expenses	(47,711)	(141,936)
Deferred revenue	(258,800)	110,971
Net cash provided by operating activities	2,006,283	575,797
Cash flows from investing activities:		