DIGITAL RIVER INC /DE
Form 10-Q
November 13, 2003

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

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

FOR THE QUARTERLY PERIOD ENDED SEPTEMBER 30, 2003

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 000-24643

DIGITAL RIVER, INC.

(Exact name of registrant as specified in its charter)

DELAWARE	**41-1901640**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification Number)

9625 WEST 76TH STREET, SUITE 150
EDEN PRAIRIE, MINNESOTA 55344
(Address of principal executive offices)

(952) 253-1234
(Registrant s telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ý No o

Indicate by check mark whether the registrant is an accelerated filer (as defined in Exchange Act Rule 12b-2) Yes ý No o

Indicate the number of shares outstanding of each of the issuer s classes of common stock, as of the latest practical date.

COMMON STOCK, $0.01 PAR VALUE	**31,230,225 SHARES**
(Class)	Outstanding as of October 31, 2003

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PART I. FINANCIAL INFORMATION

Item 1. Financial Statements

DIGITAL RIVER, INC.

CONDENSED CONSOLIDATED BALANCE SHEETS

(in thousands, except share data)

	September 30, 2003 (unaudited)	December 31, 2002
ASSETS		
Current assets		
Cash and cash equivalents	$ 108,949	$ 40,801
Short-term investments	15,034	
Accounts receivable, net of allowance of $3,262 and $1,746	7,229	10,397
Prepaid expenses and other	1,862	1,807
Total current assets	133,074	53,005
Property and equipment, net	15,174	15,637
Goodwill	21,601	18,698
Intangible and other assets, net	8,116	8,353
	$ 177,965	$ 95,693
LIABILITIES AND STOCKHOLDERS EQUITY		
Current liabilities		
Accounts payable	$ 40,748	$ 31,126
Accrued payroll	2,799	1,788
Deferred revenue	2,907	1,865
Other accrued liabilities	8,258	3,728
Total current liabilities	54,712	38,507
Stockholders equity		
Preferred Stock, $.01 par value; 5,000,000 shares authorized; no shares issued or outstanding		
Common Stock, $.01 par value; 60,000,000 shares authorized; 31,118,836 and 27,537,240 shares issued and outstanding, respectively	311	275
Additional paid-in capital	215,036	160,535
Accumulated deficit	(92,094)	(103,624)

Total stockholders equity		123,253		57,186
	$	177,965	$	95,693

See accompanying notes to condensed consolidated financial statements.

DIGITAL RIVER, INC.

CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS

(in thousands, except per share data; unaudited)

	Three months ended September 30, 2003	Three months ended September 30, 2002	Nine months ended September 30, 2003	Nine months ended September 30, 2002
Revenue	$ 26,748	$ 18,872	$ 74,112	$ 56,289
Costs and expenses (exclusive of depreciation and amortization expense shown separately below):				
Direct cost of services	861	559	2,742	1,730
Network and infrastructure	3,286	2,998	9,089	8,520
Sales and marketing	9,895	7,854	28,145	24,269
Product research and development	2,447	2,764	7,429	9,327
General and administrative	2,472	1,807	6,741	5,130
Litigation and other charges				2,500
Depreciation and amortization	1,899	1,486	5,139	4,296
Amortization of acquisition related costs	1,411	1,356	3,878	4,556
Total costs and expenses	22,271	18,824	63,163	60,328
Income (loss) from operations	4,477	48	10,949	(4,039)
Interest income net	264	50	581	259
Net income (loss)	$ 4,741	$ 98	$ 11,530	$ (3,780)
Net income (loss) per share				
Basic	$ 0.16	$ 0.00	$ 0.40	$ (0.14)
Diluted	$ 0.14	$ 0.00	$ 0.36	$ (0.14)
Weighted average common shares outstanding				
Basic	30,392	26,823	28,742	26,655
Diluted	34,608	29,054	32,279	26,655

See accompanying notes to condensed consolidated financial statements.

DIGITAL RIVER, INC.

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS

(in thousands; unaudited)

	Nine months ended September 30, 2003	Nine months ended September 30, 2002
Operating activities:		
Net income (loss)	$ 11,530	$ (3,780)
Adjustments to reconcile net income (loss) to net cash provided by		
Amortization of acquisition related costs	3,878	4,556
Depreciation and amortization	5,139	4,296
Deferred compensation expense		37
Litigation and other charges		2,500
Change in operating assets and liabilities:		
Accounts receivable	3,485	(3,311)
Other assets	(57)	(753)
Accounts payable	8,947	8,711
Other current liabilities	4,290	(1,085)
Deferred revenue	1,006	(72)
Net cash provided by operating activities	38,218	11,099
Investing activities:		
Purchases of investments	(15,000)	
Sales of investments, net		3,487
Cash paid for acquisitions, net of cash received	(3,873)	(2,778)
Purchases of equipment	(4,675)	(4,089)
Net cash used in investing activities	(23,548)	(3,380)
Financing activities:		
Proceeds from sales of common stock	43,380	
Exercise of stock options and warrants	9,298	1,486
Sales of common stock under employee stock purchase plan	800	380
Repayment of notes payable		(2,500)
Net cash provided by (used in) financing activities	53,478	(634)
Net increase in cash and cash equivalents	68,148	7,085
Cash and cash equivalents, beginning of period	40,801	21,677
Cash and cash equivalents, end of period	$ 108,949	$ 28,762

Supplemental cash flow disclosure:				
Common stock issued in acquisitions and earn-outs	$	1,025	$	2,910

See accompanying notes to condensed consolidated financial statements.

DIGITAL RIVER, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

1. BASIS OF PRESENTATION

The unaudited condensed consolidated financial statements included herein reflect all adjustments, consisting of normal recurring adjustments, which in the opinion of management are necessary to fairly state the Company s consolidated financial position, results of operations and cash flows for the periods presented. These condensed consolidated financial statements should be read in conjunction with the Company s audited consolidated financial statements included in the Company s Form 10-K for the year ended December 31, 2002 as filed with the Securities and Exchange Commission. The results of operations for the three and nine months ended September 30, 2003 are not necessarily indicative of the results to be expected for any subsequent quarter or for the entire fiscal year ending December 31, 2003. The December 31, 2002 balance sheet was derived from audited financial statements, but does not include all disclosures required by accounting principles generally accepted in the United States.

2. PRINCIPLES OF CONSOLIDATION

The condensed consolidated financial statements include the accounts of Digital River, Inc. and its wholly owned subsidiaries. All intercompany balances and transactions have been eliminated in consolidation.

3. NET INCOME (LOSS) PER SHARE

The table below sets forth the computation of basic and diluted net income (loss) per share:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2003	**2002**	**2003**	**2002**
Numerator:				
Net income (loss)	$ 4,741,000	$ 98,000	$ 11,530,000	$ (3,780,000)
Denominator:				
Basic weighted average shares outstanding	30,392,000	26,823,000	28,742,000	26,655,000
Effect of dilutive securities:				
Employee stock options and warrants	4,216,000	2,231,000	3,537,000	
Diluted weighted average shares outstanding	34,608,000	29,054,000	32,279,000	26,655,000
Basic net income (loss) per share	$ 0.16	$ 0.00	$ 0.40	$ (0.14)

Diluted net income (loss) per share	$	0.14	$	0.00	$	0.36	$	(0.14)

Diluted weighted average shares outstanding have not been adjusted for employee stock options and warrants for the nine months ended September 30, 2002 where the effect of those securities would have been anti-dilutive.

4. GOODWILL AND INTANGIBLE ASSETS

In June 2001, the Financial Accounting Standards Board issued Statement of Financial Accounting Standards (SFAS) No. 141, Business Combinations and No. 142, Goodwill and Other Intangible Assets. SFAS No. 141 requires all business combinations initiated after June 30, 2001 to be accounted for using the purchase method. Under SFAS No. 142, goodwill and intangible assets with indefinite lives will no longer be amortized but are reviewed annually (or more frequently if impairment indicators arise) for impairment. For acquisitions consummated by the Company subsequent to July 1, 2001, the Company adopted the provisions of SFAS No. 141 and 142 effective July 1, 2001. The Company adopted the full provisions of SFAS No. 141 and 142 during the first quarter of 2002.

The Company has assessed goodwill impairment using a two-step approach based on reportable segments and reassessed any intangible assets, including goodwill, recorded in connection with earlier acquisitions. The Company completed its initial and annual required goodwill impairment tests under SFAS No. 142 in the first and fourth quarters of 2002, respectively, which indicated that there was no impairment of goodwill or other intangibles.

The changes in the carrying amount of goodwill for the nine months ended September 30, 2003 by operating segment, are as follows:

	Software and Digital Commerce Services Division	E-Business Services Division	Total
Balance as of December 31, 2002	$ 11,070,000	$ 7,628,000	$ 18,698,000
Goodwill acquired during the period	2,903,000		2,903,000
Balance as of September 30, 2003	$ 13,973,000	$ 7,628,000	$ 21,601,000

Information regarding the Company s other intangible assets is as follows:

	As of September 30, 2003		
	Carrying amount	Accumulated amortization	Net
Customer relationships	$ 15,966,000	$ 10,538,000	$ 5,428,000
Non-compete agreements	3,600,000	2,819,000	781,000
Technology/tradename	7,003,000	5,117,000	1,886,000
Total	$ 26,569,000	$ 18,474,000	$ 8,095,000

	As of December 31, 2002		
	Carrying amount	Accumulated amortization	Net

Customer relationships	$ 14,117,000	$ 8,171,000	$ 5,946,000
Non-compete agreements	3,150,000	2,399,000	751,000
Technology/tradename	5,675,000	4,026,000	1,649,000
Total	$ 22,942,000	$ 14,596,000	$ 8,346,000

Amortization expense for the nine months ended September 30, 2003 was $3,878,000 and $4,556,000 for the nine months ended September 2002. Estimated amortization expense for the remaining life of the intangible assets, based on intangible assets as of September 30, 2003, is as follows:

Year ended December 31,		
2003	$	1,484,000
2004		4,399,000
2005		1,638,000
2006		574,000

5. STOCK BASED COMPENSATION

At September 30, 2003, the Company has two stock-based employee compensation plans, which are described more fully in the Company s 2002 Annual Report Note 7. The Company accounts for these plans under the recognition and measurement principles of Accounting Principles Board (APB) Opinion No. 25, Accounting for Stock Issued to Employees, and related Interpretations. No stock-based employee compensation cost is reflected in net income (loss), as all options granted under these plans had an exercise price equal to the market value of the underlying common stock on the date of the grant. The following table illustrates the effect on net income (loss) and net income (loss) per share if the Company had applied the fair value recognition provision of Financial Accounting Standards Board Statement No. 123, Accounting for Stock-Based Compensation, to stock-based employee compensation.

The Company has elected to apply the disclosure-only provisions of SFAS No. 123, Accounting for Stock-Based Compensation as amended by SFAS No. 148. Accordingly, the Company accounts for stock-based compensation using the intrinsic value method prescribed in APB Opinion No. 25, Accounting for Stock Issued to Employees, and related interpretations. Compensation cost for stock options is measured as the excess, if any, of the fair value of the Company s Common Stock at the date of grant over the stock option exercise price. Had compensation costs for these plans been determined consistent with SFAS No. 123, the Company s net income (loss) would have been adjusted to the following pro forma amounts:

	Three Months Ended September 30,				**Nine Months Ended September 30**			
	2003		**2002**		**2003**		**2002**	
Net income (loss), as reported	$	4,741,000	$	98,000	$	11,530,000	$	(3,780,000)
Add: Stock-based compensation, as reported								37,000
Deduct: Total stock-based compensation determined under fair value based method for all awards		(3,335,000)		(2,750,000)		(9,040,000)		(5,840,000)
Adjusted net income (loss), fair value method for all stock-based awards	$	1,406,000	$	(2,652,000)	$	2,490,000	$	(9,583,000)
Basic income (loss) per share as reported	$	0.16	$	0.00	$	0.40	$	(0.14)
Basic income (loss) per share SFAS No. 123 adjusted	$	0.05	$	(0.10)	$	0.09	$	(0.36)
	$	0.14	$	0.00	$	0.36	$	(0.14)

Diluted income (loss) per share as reported								
Diluted income (loss) per shares SFAS No. 123 adjusted	$	0.04	$	(0.10)	$	0.08	$	(0.36)

The fair value of each option grant is estimated on the date of grant using the Black-Scholes option pricing model with the following weighted average assumptions used: risk-free interest rates of 3.0% in 2003 and 2002, no expected dividends; expected lives of five years; and a volatility factor of 1.4 in 2003 and 2002.

6. ACQUISITIONS AND EARN-OUT ARRANGEMENTS

In January 2003, the Company acquired certain assets and assumed certain liabilities of Metatec® International, Inc. s (Metatec) electronic software distribution (ESD) business in exchange for approximately $1.2 million. Goodwill of $826,000 was recorded as a result of this agreement. The Company will amortize intangible assets acquired, consisting of a non-compete agreement and technology/tradename, over a three-year period. The agreement also provides Metatec the opportunity for an additional earn-out based on the Company achieving certain revenue metrics related to the ESD business over the course of the twelve months following November 1, 2002. Such earn-out amount, if any, will be recorded as additional goodwill.

In March 2003, the Company acquired substantially all of the assets and assumed certain liabilities of Hartsell Holdings, Inc., (Hartsell) d/b/a Infocon America Corporation in connection with its business of providing web services for business-to-business publishers in exchange for approximately $1.1 million. Goodwill of $921,000 was recorded as a result of this agreement. The Company will amortize intangible assets acquired, consisting of non-compete agreements and technology/tradename, over a three-year period. The agreement also provides Hartsell the opportunity for additional earn-outs based on the Company achieving certain gross margin and revenue metrics related to the web services for business-to-business publishers over the course of the twelve months and, at the Company s sole discretion, the twenty-four months, following the closing of the acquisition. Such earn-out amount,

if any, will be recorded as additional goodwill.

On August 1, 2003, the Company acquired substantially all of the assets and certain liabilities of The Registration Network, or Reg.Net, providers of e-commerce services for authors and vendors of try-before-you-buy software for up to $2,500,000, of which $1,318,000 has been funded. The remaining amount is subject to the satisfaction of certain contractual obligations. Additional goodwill of $30,000 was recorded as a result of this acquisition.

During the three months ended March 31, 2002, the Company acquired certain assets and liabilities of Innuity Acquisition Corp. and Beyond.com Corporation.

The following unaudited pro forma condensed results of operations for the three and nine months ended September 30, 2003 and 2002 have been prepared as if each of the acquisitions from the nine months ended September 30, 2002 had occurred on January 1, 2002. The pro forma presentation does not include pro forma presentation for the assets acquired in the nine months ended September 30, 2003, as they are not deemed to be significant.

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2003	**2002**	**2003**	**2002**
Revenue	$ 26,748,000	$ 18,872,000	$ 74,112,000	$ 58,278,000
Income (loss) from operations	4,477,000	48,000	10,949,000	(6,548,000)
Net income (loss)	4,741,000	98,000	11,530,000	(7,124,000)
Basic net income (loss) per share	$ 0.16	$ 0.00	$ 0.40	$ (0.27)

Diluted net income (loss) per share	$	0.14	$	0.00	$	0.36	$	(0.27)

This financial information does not purport to represent results that would actually have been obtained if the transactions had been in effect on January 1, 2002 or any future results that may in fact be realized.

7. SEGMENT INFORMATION

The Company has two operating segments, Software and Digital Commerce Services and E-Business Services, which have been identified as components of the Company that are reviewed regularly by management to determine resource allocation and assess performance. Unallocated corporate items consist of pending litigation and other charges, depreciation, amortization of acquisition-related costs, and interest income for operational results, and consist of certain cash, investments and goodwill and other intangibles for total assets. Segment information is as follows:

	Software and Digital Commerce Services Division	E-Business Services Division	Unallocated Corporate Items	Consolidated
Three months ended September 30, 2003				
Revenue	$ 23,490,000	$ 3,258,000	$	$ 26,748,000
Gross profit	20,457,000	2,144,000		22,601,000
Income (loss) from operations	8,034,000	(247,000)	(3,310,000)	4,477,000
Net income (loss)	8,034,000	(247,000)	(3,046,000)	4,741,000
Total assets at September 30, 2003	$ 66,437,000	$ 13,334,000	$ 98,194,000	$ 177,965,000
Three months ended September 30, 2002				
Revenue	$ 15,430,000	$ 3,442,000	$	$ 18,872,000
Gross profit	12,895,000	2,420,000		15,315,000
Income (loss) from operations	5,131,000	(2,242,000)	(2,841,000)	48,000
Net income (loss)	5,131,000	(2,242,000)	(2,791,000)	98,000
Total assets at September 30, 2002	$ 32,975,000	$ 15,267,000	$ 43,178,000	$ 91,420,000

	Software and Digital Commerce Services Division	E-Business Services Division	Unallocated Corporate Items	Consolidated
Nine months ended September 30, 2003				
Revenue	$ 63,198,000	$ 10,914,000	$	$ 74,112,000
Gross profit	54,620,000	7,661,000		62,281,000
Income (loss) from operations	20,715,000	(749,000)	(9,017,000)	10,949,000
Net income (loss)	20,715,000	(749,000)	(8,436,000)	11,530,000
Total assets at September 30, 2003	$ 66,437,000	$ 13,334,000	$ 98,194,000	$ 177,965,000
Nine months ended September 30, 2002				
Revenue	$ 45,231,000	$ 11,058,000	$	$ 56,289,000
Gross profit	38,066,000	7,973,000		46,039,000
Income (loss) from operations	14,116,000	(6,804,000)	(11,351,000)	(4,039,000)
Net income (loss)	14,116,000	(6,804,000)	(11,092,000)	(3,780,000)
Total assets at September 30, 2002	$ 32,975,000	$ 15,267,000	$ 43,178,000	$ 91,420,000

8. PUBLIC OFFERING

In January 2002, the Company filed a registration statement on Form S-3 to offer and sell, from time to time, equity and debt securities in one or more offerings up to a total dollar amount of $100 million. On February 12, 2002 the SEC declared this registration statement effective. On July 16, 2003, the Company sold 2.1 million shares of its common stock pursuant to this registration in an underwritten public offering at a price to the public of $21.35 per share. The offering resulted in net proceeds to the Company of approximately $43,380,000 after underwriting commissions and discounts of approximately $1,100,000 and other expenses of approximately $300,000.

Item 2. Management s Discussion and Analysis of Financial Condition and Results of Operations

The Company notes that, except for the historical information contained herein, the matters discussed below contain forward-looking statements that involve known and unknown risks, uncertainties and other factors that may cause the actual results, performance or achievements of the Company, or industry results, to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements. The Company expressly disclaims any obligation to update this information or publicly release any revision or reflect events or circumstances after the date of this report. Such factors include, among others: the Company s limited operating history and variability of operating results, possibility of future losses, risks associated with electronic software delivery, dependence on the Internet and growth in electronic commerce and Internet infrastructure development, dependence on software publishers, dependence on online retailers, system development and electronic commerce security risks, rapid technological changes, competition in the electronic commerce industry, the importance of attracting and retaining personnel, management of the Company s growth, integration of acquired companies, dependence on key employees and other risk factors referenced in the Company s Form 10-K for the year ended December 31, 2002.

Overview

The Company is a leading provider of comprehensive electronic commerce outsourcing solutions. The Company was incorporated in February 1994 and commenced offering products for sale through its clients Web stores in August 1996. From inception through August 1996, the Company had no sales, and its activities related primarily to the development of its proprietary technology platform, known as Commerce Network Servers or CNS. In 1996, the Company began to focus its business development efforts on the software industry, building its inventory of software products through contracts with software publishers. In 1997, the Company began to develop software distribution relationships through contracts with online retailers. As of September 30, 2003, the Company had approximately 14,000 software publisher clients and online retailer clients served by the Software and Digital Commerce Services Division. In late 1998, the Company began to offer its comprehensive electronic commerce outsourcing services in the form of a transaction fee-based e-commerce service to clients outside of the software industry. As of September 30, 2003, the Company was operating approximately 20,000 sites under its E-Business Services Division.

The Company has approximately seven years of operating history upon which investors may evaluate its business and prospects. Since inception, the Company has incurred significant losses, and as of September 30, 2003, had an accumulated deficit of approximately $92 million. The Company intends to expend financial and management resources on the development of additional services, sales and marketing, technology and operations to support larger-scale operations and greater service offerings. Although the Company expects to generate positive cash flow from operations in 2003, there can be no assurance that the Company s revenue will increase or even continue at its current level or that the Company will maintain profitability or generate cash from operations in future periods.

The Company s prospects must be considered in light of the risks, expenses and difficulties frequently encountered by companies in new and rapidly evolving markets such as electronic commerce. To address these risks, the Company must, among other things, attract and retain software publishers and online retailers as clients, attract and retain E-Business clients, introduce new Web sites, Web stores or services, continue to upgrade and develop the Company s systems and infrastructure to meet emerging market needs and remain competitive in the Company s service offerings, and retain and attract personnel commensurate with the Company s business needs. There can be no assurance that the Company will be successful in addressing these risks, and any failure to do so could have a material adverse effect on the Company s business, financial condition and results of operations.

The Company s current and future expense levels are based largely on its planned operations and estimates of future revenue. Revenue and operating results generally depend on the volume and timing of orders received, which are difficult to forecast. The Company may be unable to adjust spending in a timely manner to compensate for any unexpected revenue shortfall. Accordingly, any significant shortfall in revenue could have an immediate adverse effect on the Company s business, financial condition and results of operations. The Company is also likely to continue to see revenue fluctuate on a seasonal basis, which is typical for the software publishing market in general and its current E-Business Service clients. The Company believes that its first and fourth quarters tend to be seasonally stronger than its second and third quarters due to the timing of demand for tax preparation software and the holiday season selling period. In addition, it is the Company s belief that software publishers avoid new product releases in the summer months. In view of the rapidly evolving nature of the Company s business, the Company is unable to accurately forecast its revenue and believes that period-to-period comparisons of its operating results are not necessarily meaningful and should not be relied upon as an indication of future performance.

Effective July 1, 2003, the European Union implemented new rules regarding the collection and payment of Value Added Tax, or VAT. These new rules require VAT to be charged on supplies delivered over electronic networks, including software and computer services, as well as information and cultural, artistic, sporting, scientific, educational, entertainment and similar services. These services are now taxed in the country where the purchaser resides rather than where the supplier is located. Historically, suppliers of digital products that existed outside the European Union were not required to collect or remit VAT on digital orders made to purchasers in the European Union. With the implementation of these new rules, the Company is required to collect and remit VAT on digital orders received from purchasers in the European Union which effectively raises the prices for these goods by the VAT amount. This price increase could serve to discourage purchasing of the Company s products and services which in turn could adversely affect the Company s operating results and financial condition.

Results of Operations

The following table sets forth certain items from the Company s condensed consolidated statements of operations as a percentage of total revenue for the periods indicated.

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2003	2002	2003	2002
Revenue	100.0%	100.0%	100.0%	100.0%
Costs and expenses				
Direct cost of services	3.2	3.0	3.7	3.1
Network and infrastructure	12.3	15.9	12.3	15.1
Sales and marketing	37.0	41.6	38.0	43.1
Product research and development	9.2	14.6	10.0	16.6
General and administrative	9.2	9.6	9.1	9.1
Litigation and other charges				4.5
Depreciation and amortization	7.1	7.9	6.9	7.6
Amortization of acquisition-related costs	5.3	7.2	5.2	8.1
Total operating expenses	83.3	99.8	85.2	107.2
Income (loss) from operations	16.7			