ICONIX BRAND GROUP, INC.
Form 10-Q
November 06, 2009

United States
Securities and Exchange Commission
Washington, D.C. 20549

FORM 10-Q

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

For the Quarterly Period Ended September 30, 2009

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 0-10593

ICONIX BRAND GROUP, INC.
(Exact name of registrant as specified in its charter)

Delaware	11-2481903
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
1450 Broadway, New York, NY	10018
(Address of principal executive offices)	(Zip Code)

(212) 730-0030
(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 x No ¨

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period 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.

Large accelerated filer x	Accelerated filer o
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 Exchange Act)
Yes o No x

Indicate the number of shares outstanding of each of the issuer's classes of Common Stock, as of the latest practicable date.

Common Stock, $.001 Par Value – 71,413,628 shares as of November 5, 2009.

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Part I. Financial Information
Item 1. Financial Statements

Iconix Brand Group, Inc. and Subsidiaries
Condensed Consolidated Balance Sheets
(in thousands, except par value)

	September 30, 2009 (unaudited)	December 31, 2008(1)
Assets		
Current Assets:		
Cash (including restricted cash of $7,377 in 2009 and $875 in 2008)	$ 233,431	$ 67,279
Accounts receivable	54,181	47,054
Deferred income tax assets	1,806	1,655
Prepaid advertising and other	14,541	13,400
Total Current Assets	303,959	129,388
Property and equipment:		
Furniture, fixtures and equipment	10,976	9,187
Less: Accumulated depreciation	(3,476)	(2,468)
	7,500	6,719
Other Assets:		
Restricted cash	15,866	15,866
Marketable securities	6,801	7,522
Goodwill	164,586	144,725
Trademarks and other intangibles, net	1,054,176	1,060,460
Deferred financing costs, net	5,230	6,524
Non-current deferred income tax assets	23,080	25,463
Investments and joint ventures	22,797	4,097
Other assets – non-current	26,376	19,495
	1,318,912	1,284,152
Total Assets	$ 1,630,371	$ 1,420,259
Liabilities and Stockholders' Equity		
Current liabilities:		
Accounts payable and accrued expenses	$ 16,041	$ 22,392
Accounts payable, subject to litigation	-	1,878
Deferred revenue	10,094	5,570
Current portion of long-term debt	71,244	73,363
Total current liabilities	97,379	103,203
Non-current deferred income taxes	132,136	118,469
Long term debt, less current maturities	503,056	545,226
Long term deferred revenue	9,632	9,272
Other long term liabilities	884	-
Total Liabilities	743,087	776,170
Commitments and contingencies		

Stockholders' Equity		
Common stock, $.001 par value shares authorized 150,000; shares issued 72,657 and 59,077 respectively	71	58
Additional paid-in capital	721,905	533,235
Retained earnings	175,752	120,358
Accumulated other comprehensive loss	(4,232)	(3,880)
Less: Treasury stock – 1,149 and 921 shares at cost, respectively	(7,380)	(5,682)
Total Iconix Stockholders’ Equity	886,116	644,089
Non-controlling interest	1,168	-
Total Stockholders’ Equity	887,284	644,089
Total Liabilities and Stockholders' Equity	$ 1,630,371	$ 1,420,259

(1) As adjusted due to implementation of FSP APB 14-1 (ASC Topic 470). See Notes 2 and 6.

See Notes to Unaudited Condensed Consolidated Financial Statements.

Iconix Brand Group, Inc. and Subsidiaries

Unaudited Condensed Consolidated Income Statements
(in thousands, except earnings per share data)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2009	2008(1)	2009	2008(1)
Licensing and other revenue	$ 59,367	$ 55,135	$ 166,276	$ 162,502
Selling, general and administrative expenses	21,023	18,558	54,661	55,589
Expenses related to specific litigation	-	279	137	665
Operating income	38,344	36,298	111,478	106,248
Other expenses				
Interest expense	9,787	11,458	30,336	35,694
Interest income	(766)	(948)	(1,941)	(3,363)
Equity (earnings) loss on joint ventures	(2,559)	428	(3,366)	428
Other expenses - net	6,462	10,938	25,029	32,759
Income before income taxes	31,882	25,360	86,449	73,489
Provision for income taxes	11,428	8,939	31,055	25,914
Net income	$ 20,454	$ 16,421	$ 55,394	$ 47,575
Earnings per share:				
Basic	$ 0.29	$ 0.28	$ 0.87	$ 0.83
Diluted	$ 0.28	$ 0.27	$ 0.83	$ 0.78
Weighted average number of common shares outstanding:				
Basic	71,336	57,841	63,850	57,662
Diluted	74,070	61,091	66,426	61,241

(1) As adjusted due to implementation of FSP APB 14-1 (ASC Topic 470). See Notes 2 and 6.

See Notes to Unaudited Condensed Consolidated Financial Statements.

Iconix Brand Group, Inc. and Subsidiaries

Unaudited Condensed Consolidated Statement of Stockholders' Equity

Nine Months Ended September 30, 2009
(in thousands)

	Common Stock Shares	Common Stock Amount	Additional Paid-in Capital	Retained Earnings	Accumulated Other Comprehensive Loss	Treasury Stock	Non-Controlling Interest	Total
Balance at January 1, 2009 - as adjusted (1)	58,156	$ 58	$ 533,235	$ 120,358	$ (3,880)	$ (5,682)	$ -	$ 644,089
Shares issued on exercise of stock options	828	1	3,229	-	-	-	-	3,230
Shares issued on vesting of restricted stock	166	-	-	-	-	-	-	-
Shares repurchased on the open market	(200)	-	-	-	-	(1,455)	-	(1,455)
Shares issued for earn-out on acquisition	1,297	1	15,675	-	-	-	-	15,676
Issuance of new stock	10,700	11	152,787	-	-	-	-	152,798
Issuance of common stock related to joint venture	589	-	7,999	-	-	-	-	7,999
Shares repurchased on vesting of restricted stock and exercise of stock options	(28)	-	-	-	-	(243)	-	(243)
Tax benefit of stock option exercises	-	-	3,941	-	-	-	-	3,941
Amortization expense in connection with restricted stock	-	-	4,983	-	-	-	-	4,983
Amortization expense in connection with convertible notes	-	-	56	-	-	-	-	56
Comprehensive income:								
Net income	-	-	-	55,394	-	-	-	55,394
Realization of cash flow hedge, net of tax	-	-	-	-	110	-	-	110
Change in fair value of securities, net of tax	-	-	-	-	(462)	-	-	(462)
Total comprehensive income	-	-	-	-	-	-	-	55,042

Increase in non-controlling interest	-		-		-		-		-		-		1,168		1,168
Balance at September 30, 2009	71,508	$	71	$	721,905	$	175,752	$	(4,232)	$	(7,380)	$	1,168	$	887,284

(1) As adjusted due to implementation of FSP APB 14-1 (ASC Topic 470). See Notes 2 and 6.

See Notes to Unaudited Condensed Consolidated Financial Statements.

Iconix Brand Group, Inc. and Subsidiaries

Unaudited Condensed Consolidated Statements of Cash Flows
(in thousands)

	Nine Months Ended September 30,	
	2009	2008(1)
Cash flows from operating activities:		
Net income	$ 55,394	47,575
Depreciation of property and equipment	1,008	511
Amortization of trademarks and other intangibles	5,361	5,485
Amortization of deferred financing costs	1,738	1,316
Amortization of convertible note discount	10,431	9,447
Stock-based compensation expense	4,993	6,234
Expiration of cash flow hedge	148	-
Change in non-controlling interest	(897)	-
Change in allowance for bad debts	3,396	1,351
Equity investments in joint ventures	(2,468)	428
Gain on sale of trademark	(3,723)	(2,625)
Deferred income taxes	15,899	18,297
Changes in operating assets and liabilities, net of business acquisitions:		
Accounts receivable	(10,523)	(14,315)
Prepaid advertising and other	1,136	(10,876)
Other assets	(3,983)	1,025
Deferred revenue	4,884	(3,517)
Accounts payable and accrued expenses	(3,116)	2,795
Other long term liabilities	884	-
Net cash provided by operating activities	80,562	63,131
Cash flows used in investing activities:		
Purchases of property and equipment	(1,789)	(4,245)
Additions to trademarks	(114)	(546)
Collection on promissory note	-	1,000
Investment in joint venture	(9,000)	(2,000)
Distributions to equity partners	991	-
Payment of accrued expenses related to acquisitions	(223)	(1,293)
Earn-out payment on acquisition	(9,400)	(4,453)
Net cash used in investing activities	(19,535)	(11,537)
Cash flows used in financing activities:		
Proceeds from issuance of new stock, net of cost	152,787	-
Proceeds from exercise of stock options and warrants	3,229	2,257
Shares repurchased on vesting of restricted stock and exercise of stock options	(243)	(700)
Shares repurchased on the open market	(1,455)	-
Payment of long-term debt	(55,200)	(30,754)
Non-controlling interest contribution	2,066	-
Excess tax benefit from share-based payment arrangements	3,941	8,958
Restricted cash - current	(6,502)	3,919
Restricted cash - non-current	-	(695)
Net cash provided by (used in) financing activities	98,623	(17,015)

Net (decrease) increase in cash and cash equivalents		159,650	34,579
Cash, beginning of period		66,404	48,067
Cash, end of period	$	226,054	82,646
Balance of restricted cash - current		7,377	1,286
Total cash including current restricted cash, end of period	$	233,431	83,932

(1) As adjusted due to implementation of FSP APB 14-1 (ASC Topic 470). See Notes 2 and 6.

Supplemental disclosure of cash flow information:

	Nine Month Ended September 30,	
	2009	2008
Cash paid during the period:		
Income taxes	$ 8,023	$ 5,325
Interest	$ 15,645	$ 22,811

Supplemental disclosures of non-cash investing and financing activities:

	Nine Months Ended September 30,	
	2009	2008
Acquisitions:		
Common stock issued	$ 23,675	$ 1,877

See Notes to Unaudited Condensed Consolidated Financial Statements.

Iconix Brand Group, Inc. and Subsidiaries

Notes to Unaudited Condensed Consolidated Financial Statements
September 30, 2009

1. Basis of Presentation

The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with generally accepted accounting principles for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X. Accordingly, they do not include all the information and footnotes required by generally accepted accounting principles for complete financial statements. In the opinion of management of Iconix Brand Group, Inc. (the "Company", "we", "us", or "our"), all adjustments (consisting primarily of normal recurring accruals) considered necessary for a fair presentation have been included. Operating results for the three months ("Current Quarter") and nine months ("Current Nine Months") ended September 30, 2009 are not necessarily indicative of the results that may be expected for a full fiscal year.

Certain prior period amounts have been reclassified to conform to the current period's presentation.

For further information, refer to the consolidated financial statements and footnotes thereto included in the Company's Annual Report on Form 10-K for the year ended December 31, 2008 ("fiscal 2008"). Subsequent events were evaluated through November 6, 2009, the date these financial statements were issued.

2. Changes in Accounting

In the first quarter of 2009, the Company adopted the provisions of Financial Accounting Standards Board Staff Position APB 14-1 "Accounting for Convertible Debt Instruments That May Be Settled in Cash Upon Conversion" ("FSP APB 14-1") (ASC Topic 470), which changed the accounting for convertible debt instruments with cash settlement features. FSP APB 14-1 applies to the Company's previously issued 1.875% convertible senior subordinated notes ("Convertible Notes"). In accordance with FSP APB 14-1, the Company recognized the liability component of its Convertible Notes at fair value. The liability component is recognized as the fair value of a similar instrument that does not have a conversion feature at issuance. The equity component, which is the value of the conversion feature at issuance, is recognized as the difference between the proceeds from the issuance of the Convertible Notes and the fair value of the liability component, after adjusting for the deferred tax impact. The Convertible Notes were issued at a coupon rate of 1.875%, which was below that of a similar instrument that does not have a conversion feature. The Company recognizes an effective interest rate of 7.85% on the carrying amount of the Convertible Notes. The effective rate is based on the rate for a similar instrument that does not have a conversion feature. As such, the valuation of the debt component, using the income approach, resulted in a debt discount of $73.4 million at inception. The debt discount is amortized over the expected life of the debt, which is also the stated life of the debt. See Note 6 for further discussion.

As a result of applying FSP APB 14-1 retrospectively to all periods presented, the Company recognized the following incremental effects on individual line items on the consolidated balance sheet as of December 31, 2008:

(000's omitted)	Before FSP APB 14-1(ASC Topic 470)	Adjustment	After FSP APB 14-1(ASC Topic 470)
Non-current deferred income tax liabilities	$ 99,604	$ 18,865	$ 118,469
Long-term debt, less current maturities	594,664	(49,438)	545,226
Additional paid-in-capital	491,936	41,299	533,235

Retained earnings	131,094	(10,736)	120,358

The impact of implementing FSP APB 14-1 for the three months ended September 30, 2008 ("Prior Year Quarter") and nine months ended September 30, 2008 ("Prior Year Nine Months") has increased interest expense by approximately $2.9 million and $8.6 million, respectively, and decreased the provision for income taxes by approximately $1.0 million and $3.1 million, respectively, the net result of which decreased net income by approximately $1.9 million and $5.4 million, respectively, and decreased diluted earnings per share by approximately $0.03 and $0.09, respectively.

The impact of implementing FSP APB 14-1 for the Current Quarter and the Current Nine Months has increased interest expense by approximately $3.3 million and $9.5 million, respectively, and decreased the provision for income taxes by approximately $1.2 million and $3.4 million, respectively, the net result of which decreased net income by approximately $2.1 million and $6.1 million, respectively, and decreased diluted earnings per share by approximately $0.03 and $0.09, respectively.

3. Investments and Joint Ventures

Scion LLC

Scion LLC (“Scion”) is a brand management and licensing company formed by the Company with Shawn “Jay-Z” Carter in March 2007 to buy, create and develop brands across a spectrum of consumer product categories. On November 7, 2007, Scion, through its wholly-owned subsidiary Artful Holdings LLC (“Artful Holdings”), purchased Artful Dodger, an exclusive, high end urban apparel brand for a purchase price of $15.0 million. Concurrent with the acquisition of Artful Dodger, Artful Holdings entered into a license agreement covering all major apparel categories for the United States. This license was transitioned to a new licensee during the Current Quarter.

The brand has also been licensed to wholesale partners and distributors in Canada and Europe.

At inception, the Company determined that it would consolidate Scion since, under Financial Accounting Standards Board (“FASB”) Interpretations No. 46 “Consolidation of Variable Interest Entities – revised” (“FIN 46R”) (ASC Topic 810), the Company effectively holds a 100% equity interest and is the primary beneficiary in the variable interest entity.

On March 12, 2009, the Company, through its investment in Scion, effectively acquired a 16.6% interest in one of its licensees for $1. The Company has determined that this entity is a variable interest entity as defined by FIN 46R. However, the Company is not the primary beneficiary; therefore, the investment in this entity is accounted for under the cost method of accounting. As part of the transaction, the Company and its Scion partner each contributed approximately $2.1 million to Scion, which was deposited as cash collateral under the terms of the entity’s financing agreements. The total contributed cash of approximately $4.1 million, which is owned by Scion, is included as short-term restricted cash in the Company’s balance sheet.

In December 2007, the FASB issued SFAS No. 160, “Non-controlling Interests in Consolidated Financial Statements — an amendment of ARB No. 51” (“SFAS 160”) (ASC Topic 810). SFAS 160 requires the recognition of a non-controlling interest (formerly known as a “minority interest”) as equity in the consolidated financial statements and separate from the parent’s equity. For the Current Quarter and Current Nine Months, the amount of net income attributable to the non-controlling interest is approximately $0.6 million and $0.9 million and has been included in equity earnings on joint venture in the unaudited condensed consolidated income statement. As a result, for the Current Quarter and Current Nine Months, the impact of consolidating the joint venture into the Company’s unaudited condensed consolidated statement of income decreased net income by $0.6 million and $0.9 million, respectively. The impact of consolidating the joint venture in the Prior Year Quarter and the Prior Year Nine Months increased net income by $0.5 million and $0.5 million, respectively.

At September 30, 2009, the impact of consolidating the joint venture on the Company’s unaudited condensed consolidated balance sheet has increased current assets by $4.3 million, non-current assets by $14.5 million and current liabilities by $1.2 million. At December 31, 2008, the impact of consolidating the joint venture on the Company’s consolidated balance sheet had increased current assets by $3.5 million, non-current assets by $15.3 million and current liabilities by $2.3 million.

As of September 30, 2009 and December 31, 2008, the Company’s equity at risk in Scion was approximately $22.7 million and $16.0 million, respectively. At September 30, 2009 and December 31, 2008, the carrying value of the consolidated assets that are collateral for the variable interest entity’s obligations total $13.9 million and $14.7 million, respectively, which is comprised of the Artful Dodger trademark. The assets of the Company are not available to the variable interest entity's creditors.

Iconix China

On September 5, 2008, the Company and Novel Fashions Holdings Limited ("Novel") formed a joint venture ("Iconix China") to develop and market the Company's brands in the People's Republic of China, Hong Kong, Macau and Taiwan (the "China Territory"). Pursuant to the terms of this transaction, the Company contributed to Iconix China substantially all rights to its brands in the China Territory and committed to contribute $5.0 million, and Novel committed to contribute $20 million. Upon closing of the transaction, the Company contributed $2.0 million and Novel contributed $8.0 million. The balance of the parties' respective contributions are due in September 2009 and September 2010. As of September 30, 2009, the balance of the amount that was due in September 2009 has not been paid as the joint venture parties have determined that the joint venture is currently adequately funded. The balance of the contributions due will continue to be evaluated jointly by the Company and Novel, and will be funded as necessary.

At inception, the Company determined, in accordance with FIN 46R, based on the corporate structure, voting rights and contributions of the Company and Novel, that Iconix China is a variable interest entity and not subject to consolidation, as, under FIN46R, the Company is not the primary beneficiary of Iconix China. The Company has recorded its investment under the equity method of accounting.

At September 30, 2009, the Company's maximum exposure for this joint venture was $6.3 million. At December 31, 2008, the Company's maximum exposure was $7.1 million.

At September 30, 2009, Iconix China's balance sheet included approximately $6.0 million in current assets, $22.9 million in total assets, $0.2 million in current liabilities, and $0.2 million in total liabilities. At December 31, 2008, Iconix China's balance sheet included approximately $8.3 million in current assets, $25.1 million in total assets, $1.2 million in current liabilities, and $1.2 million in total liabilities.

For the Current Quarter, Iconix China's statement of operations reflects $0.2 million in revenue and approximately $0.8 million in operating expenses. For the Current Nine Months, Iconix China's statement of operations reflects that it had approximately $0.2 million in revenue and approximately $1.7 million in operating expenses. As a result, for the Current Quarter and Current Nine Months, the Company recorded an equity loss of approximately $0.3 million and $0.8 million, respectively, on its equity investment in the Iconix China joint venture. For the Prior Year Quarter and the Prior Year Nine Months, the Company recorded an equity loss of approximately $0.4 million on its equity investment in the Iconix China joint venture.

Iconix Latin America

In December 2008, the Company contributed substantially all rights to its brands in Mexico, Central America, South America, and the Caribbean (the "Latin America Territory") to Iconix Latin America LLC ("Iconix Latin America"), a then newly formed subsidiary of the Company. On December 29, 2008, New Brands America LLC ("New Brands"), an affiliate of the Falic Group, purchased a 50% interest in Iconix Latin America. .In consideration for its 50% interest in Iconix Latin America, New Brands agreed to pay $6.0 million to the Company. New Brands paid $1.0 million upon closing of this transaction and has committed to pay an additional $5.0 million over the 30-month period following closing, of which $2.0 million, representing the required payments, was paid during the Current Nine Months. As of September 30, 2009, the balance owed to the Company under this obligation is $4.0 million. The current portion of $2.5 million is included in the unaudited condensed consolidated balance sheet in prepaid advertising and other and the long term portion of $1.5 million is included in other assets – non-current.

Based on the corporate structure, voting rights and contributions of the Company and New Brands, Iconix Latin America is not subject to consolidation.   This conclusion was based on the Company's determination that the entity met the criteria to be considered a "business," and therefore was not subject to consolidation due to the "business scope exception" of FIN 46R. As such, the Company has recorded its investment under the equity method of accounting.

At September 30, 2009, Iconix Latin America's balance sheet included approximately $1.3 million in current assets, $1.3 million in total assets, $0.1 million in current liabilities, and $0.1 million in total liabilities. For the Current Quarter, Iconix Latin America's statement of operations reflects that it had approximately $0.4 million in revenue and approximately $0.1 million in operating expenses. For the Current Nine Months, Iconix Latin America's statement of operations reflects that it had approximately $1.2 million in revenue and approximately $0.1 million in operating expenses. As a result, during the Current Quarter and Current Nine Months, the Company recorded equity earnings of approximately $0.2 million and $0.6 million, respectively, on its equity investment in the Iconix Latin America joint venture, representing the Company's 50% equity interest in Iconix Latin America.

Ed Hardy

On May 4, 2009, the Company acquired a 50% interest in Hardy Way LLC ("Hardy Way"), the owner of the Ed Hardy brands and trademarks, for $17.0 million, comprised of $9.0 million in cash and 588,688 shares of the Company's common stock valued at $8.0 million. In addition, the sellers of the 50% interest may be entitled to receive an additional $1.0 million in shares of the Company's common stock pursuant to an earn-out based on royalties received by Hardy Way for the year ending December 31, 2009.

Based on the corporate structure, voting rights and contributions of the Company and Hardy Way, Hardy Way is not subject to consolidation. This conclusion was based on the Company's determination that the entity met the criteria to be considered a "business," and therefore was not subject to consolidation due to the "business scope exception" of FIN 46R. As such, the Company has recorded its investment under the equity method of accounting.

At September 30, 2009, Hardy Way's balance sheet included approximately $2.1 million in current assets, $2.1 million in total assets, $0.4 million in current liabilities, and $0.4 million in total liabilities. For the Current Quarter, Hardy Way's statement of operations reflects that it had approximately $4.3 million in revenue and approximately $0.2 million in operating expenses. For the Current Nine Months, Hardy Way's statement of operations reflects that it had approximately $5.6 million in revenue and approximately $0.3 million in operating expenses. As a result, during the Current Quarter and Current Nine Months, the Company recorded equity earnings of approximately $2.1 million and $2.7 million, respectively, on its equity investment in the Hardy Way joint venture, representing the Company's 50% equity interest in Hardy Way.

4. Fair Value Measurements

SFAS No. 157 "Fair Value Measurements" ("SFAS 157") (ASC Topic 820), which the Company adopted on January 1, 2008, establishes a framework for measuring fair value and requires expanded disclosures about fair value measurement. While SFAS 157 does not require any new fair value measurements in its application to other accounting pronouncements, it does emphasize that a fair value measurement should be determined based on the assumptions that market participants would use in pricing the asset or liability. As a basis for considering market participant assumptions in fair value measurements, SFAS 157 established the following fair value hierarchy that distinguishes between (1) market participant assumptions developed based on market data obtained from sources independent of the reporting entity (observable inputs) and (2) the reporting entity's own assumptions about market participant assumptions developed based on the best information available in the circumstances (unobservable inputs):

Level 1: Observable inputs such as quoted prices for identical assets or liabilities in active markets

Level 2: Other inputs that are observable directly or indirectly, such as quoted prices for similar assets or liabilities or market-corroborated inputs

Level 3: Unobservable inputs for which there is little or no market data and which requires the owner of the assets or liabilities to develop its own assumptions about how market participants would price these assets or liabilities

The valuation techniques that may be used to measure fair value are as follows:

(A) Market approach - Uses prices and other relevant information generated by market transactions involving identical or comparable assets or liabilities

(B) Income approach - Uses valuation techniques to convert future amounts to a single present amount based on current market expectations about those future amounts, including present value techniques, option-pricing models and excess earnings method

(C) Cost approach - Based on the amount that would currently be required to replace the service capacity of an asset (replacement cost)

To determine the fair value of certain financial instruments, the Company relies on Level 2 inputs generated by market transactions of similar instruments where available, and Level 3 inputs using an income approach when Level 1 and Level 2 inputs are not available. The Company's assessment of the significance of a particular input to the fair value measurement requires judgment and may affect the valuation of financial assets and financial liabilities and their placement within the fair value hierarchy. The following table summarizes the instruments measured at fair value at September 30, 2009:

Carrying Amount as of September 30, 2009 (000's omitted)	Level 1	Level 2	Level 3	Valuation Technique
Marketable Securities	$ -	$ -	$ 6,801	(B)
Cash Flow Hedge	$ -	$ 1	$ -	(A)

Under SFAS No. 159, "The Fair Value Option for Financial Assets and Financial Liabilities" ("SFAS 159") (ASC Topic 825), entities are permitted to choose to measure many financial instruments and certain other items at fair value. The Company did not elect the fair value measurement option under SFAS 159 for any of its financial assets or liabilities.

In February 2008, the FASB issued FASB Staff Position No. FAS 157-2, "Effective Date of FASB Statement No. 157," (ASC Topic 820) which deferred the effective date of adoption of this Staff Position to January 1, 2009 for all nonfinancial assets and liabilities, except those that are recognized or disclosed at fair value on a recurring basis (that is, at least annually). The Company adopted the deferred provisions of SFAS 157 on January 1, 2009. The adoption of these provisions did not have a material effect on the Company's unaudited condensed consolidated financial statements.

Marketable Securities

Marketable securities, which are accounted for as available-for-sale, are stated at fair value in accordance with SFAS No. 115, "Accounting for Certain Investments in Debt and Equity Securities," ("SFAS 115") (ASC Topic 320)and consist of auction rate securities ("ARS"). Temporary changes in fair market value are recorded as other comprehensive income or loss, whereas other than temporary markdowns will be realized through the Company's income statement.

As of September 30, 2009, the Company held ARS with a face value of $13.0 million and a fair value of approximately $6.8 million. In December 2008, the insurer of the ARS exercised its put option to replace the underlying securities of the ARS with its preferred securities. Although the ARS had paid cash dividends according to their stated terms, during the second quarter of 2009, the Company received notice from the insurer that payment of cash dividends would cease as of July 31, 2009 and would only be resumed if the board of directors of the insurer declared such cash dividends to be payable at a later date. Prior to the cessation of cash dividend payments, the Company estimated the fair value of its ARS with a discounted cash flow model where the Company used the expected rate of cash dividends to be received. As the cash dividend payments have ceased, the Company has changed its methodology for estimating the fair value of the ARS. Beginning June 30, 2009, the Company estimated the fair value of its ARS using the present value of the weighted average of several scenarios of recovery based on management's assessment of the probability of each scenario. The Company considered a variety of factors in its model including: credit rating of the issuer and insurer, comparable market data (if available), current macroeconomic market conditions, quality of the underlying securities, and the probabilities of several levels of recovery and reinstatement of the cash dividend payments. As a result of its evaluation, during the Current Nine Months the Company has recorded an unrealized pre-tax loss of approximately $0.7 million in accumulated other comprehensive loss as a reduction to stockholders' equity to reflect a temporary decline in the fair value of the ARS; the Company's evaluation as of September 30, 2009 resulted in no impact to the Current Quarter. The Company believes the decrease in fair value is temporary due to general macroeconomic market conditions. Further, the Company has the ability and intent to hold the ARS until an anticipated full redemption. These funds will not be available to the Company until a successful auction occurs or a buyer is found outside the auction process. As the ARS have failed to auction and may not auction successfully in the near future, the Company has classified its ARS as non-current. The Company continues to monitor the auction rate securities market and considers its impact, if any, on the fair value of its ARS. The following table summarizes the activity for the period:

Auction Rate Securities (000's omitted)	For the Three Months Ended September 30, (unaudited)		For the Nine Months Ended September 30, (unaudited)	
	2009	2008	2009	2008
Balance at beginning of period	$ 6,801	$ 10,660	$ 7,522	$ 10,920
Additions	-	-	-	-
Gains (losses) reported in earnings	-	-	-	-
Losses reported in accumulated other comprehensive loss	-	-	(721)	(260)
Balance at end of period	$ 6,801	$ 10,660	$ 6,801	$ 10,660

Cash Flow Hedge

On July 26, 2007, the Company purchased a hedge instrument from Lehman Brothers Special Financing Inc. ("LBSF") to mitigate the cash flow risk of rising interest rates on the Term Loan Facility (see Note 6 for a description of this credit agreement). This hedge instrument caps the Company's exposure to rising interest rates at 6.00% for LIBOR for 50% of the forecasted outstanding balance of the Term Loan Facility ("Interest Rate Cap"). Based on management's assessment, the Interest Rate Cap qualifies for hedge accounting under SFAS 133 "Accounting for Derivative Instruments and Hedging Transactions" (ASC Topic 815). On a quarterly basis, the value of the hedge is adjusted to reflect its current fair value, with any adjustment flowing through other comprehensive income. The fair value of this instrument is obtained by comparing the characteristics of this cash flow hedge with similarly traded instruments, and is therefore classified as Level 2 in the fair value hierarchy. At September 30, 2009, the fair value of the Interest Rate Cap was approximately $1,000. On October 3, 2008, LBSF filed a petition for bankruptcy protection under Chapter 11 of the United States Bankruptcy Code. The Company currently believes that the LBSF bankruptcy filing and its potential impact on LBSF will not have a material adverse effect on the Company's financial position, results of operations or cash flows.

Financial Instruments

At September 30, 2009 and December 31, 2008, the fair values of cash and cash equivalents, receivables and accounts payable approximated their carrying values due to the short-term nature of these instruments. The fair value of the note receivable from New Brands (see Note 3) approximates its $4.0 million carrying value; the fair value of the note receivable due from the purchasers of the Canadian trademark for Joe Boxer approximates its $5.2 million carrying value. The estimated fair values of other financial instruments subject to fair value disclosures, determined based on broker quotes or quoted market prices or rates for the same or similar instruments, and the related carrying amounts are as follows:

(000's omitted)	September 30, 2009 (unaudited)		December 31, 2008	
	Carrying Amount	Fair Value	Carrying Amount	Fair Value
Long-term debt, including current portion	$ 574,300	$ 576,611	$ 618,589	$ 534,098

Financial instruments expose the Company to counterparty credit risk for nonperformance and to market risk for changes in interest. The Company manages exposure to counterparty credit risk through specific minimum credit standards, diversification of counterparties and procedures to monitor the amount of credit exposure. The Company's financial instrument counterparties are substantial investment or commercial banks with significant experience with such instruments.

Non-Financial Assets and Liabilities

On January 1, 2009, the Company adopted the provisions of SFAS 157 with respect to its non-financial assets and liabilities requiring non-recurring adjustments to fair value. The Company uses level 3 inputs and the income method to measure the fair value of its non-financial assets and liabilities. The Company had no adjustments in the Current Nine Months. The Company has goodwill, which is tested for impairment at least annually, as required by SFAS 142 (ASC Topic 350). Further, in accordance with SFAS 142, the Company's indefinite-lived trademarks are tested for impairment at least annually, on an individual basis as separate single units of accounting. Similarly, consistent with SFAS 144 "Accounting for the Impairment or Disposal of Long-Lived Assets" (ASC Topic 360), the Company assesses whether or not there is impairment of the Company's definite-lived trademarks. See Note 5.

5. Trademarks and Other Intangibles, net

Trademarks and other intangibles, net consist of the following:

		September 30, 2009 (unaudited)		December 31, 2008	
(000's omitted)	Estimated Lives in Years	Gross Carrying Amount	Accumulated Amortization	Gross Carrying Amount	Accumulated Amortization
Indefinite life trademarks	indefinite	$ 1,034,449	$ 9,498	$ 1,035,382	$ 9,498
Definite life trademarks	10-15	19,570	3,331	19,561	2,252
Non-compete agreements	2-15	10,075	7,232	10,075	6,098
Licensing agreements	1-9	22,193	12,198	22,193	9,136
Domain names	5	570	422	570	337
		$ 1,086,857	$ 32,681	$ 1,087,781	$ 27,321

On September 30, 2009, the Company entered into a perpetual license and purchase option agreement with a licensee for its Joe Boxer trademark covering the Canadian territory in exchange for approximately $5.2 million. As a result of this transaction, the balance of the Company's indefinite life trademarks was reduced by approximately $1.0 million, representing the cost basis for the Joe Boxer trademark for the Canadian territory. In addition, goodwill of approximately $0.4 million was written off in connection with this transaction.

Amortization expense for intangible assets was $1.8 million for both the Current Quarter and the Prior Year Quarter, and $5.4 million and $5.5 million for the Current Nine Months and the Prior Year Nine Months, respectively. The trademarks of Candies, Bongo, Joe Boxer, Rampage, Mudd, London Fog, Mossimo, Ocean Pacific, Danskin, Rocawear, Cannon, Royal Velvet, Fieldcrest, Charisma, Starter and Waverly have been determined to have an indefinite useful life and accordingly, consistent with SFAS 142, no amortization will be recorded in the Company's consolidated income statements. Instead, each of these intangible assets will be tested for impairment at least annually on an individual basis as separate single units of accounting, with any related impairment charge recorded to the statement of operations at the time of determining such impairment. Similarly, consistent with SFAS 144 "Accounting for the Impairment or Disposal of Long-Lived Assets", there was no impairment of the definite-lived trademarks.

6. Debt Arrangements

The Company's debt is comprised of the following:

(000's omitted)	September 30, 2009 (unaudited)	December 31, 2008
Convertible Senior Subordinated Notes (Note 2)	$ 244,026	$ 233,999
Term Loan Facility	217,484	255,307
Asset-Backed Notes	100,604	117,097
Sweet Note (Note 7)	12,186	12,186
Total Debt	$ 574,300	$ 618,589

Convertible Senior Subordinated Notes

On June 20, 2007, the Company completed the issuance of $287.5 million principal amount of the Company's Convertible Notes in a private offering to certain institutional investors. The net proceeds received by the Company from the offering were approximately $281.1 million.

The Convertible Notes bear interest at an annual rate of 1.875%, payable semi-annually in arrears on June 30 and December 31 of each year, beginning December 31, 2007. However, the Company recognizes an effective interest rate of 7.85% on the carrying amount of the Convertible Notes. The effective rate is based on the rate for a similar instrument that does not have a conversion feature. The Convertible Notes will be convertible into cash and, if applicable, shares of the Company's common stock based on a conversion rate of 36.2845 shares of the Company's common stock, subject to customary adjustments, per $1,000 principal amount of the Convertible Notes (which is equal to an initial conversion price of approximately $27.56 per share) only under the following circumstances: (1) during any fiscal quarter beginning after September 30, 2007 (and only during such fiscal quarter), if the closing price of the Company's common stock for at least 20 trading days in the 30 consecutive trading days ending on the last trading day of the immediately preceding fiscal quarter is more than 130% of the conversion price per share, which is $1,000 divided by the then applicable conversion rate; (2) during the five business day period immediately following any five consecutive trading day period in which the trading price per $1,000 principal amount of the Convertible Notes for each day of that period was less than 98% of the product of (a) the closing price of the Company's common stock for each day in that period and (b) the conversion rate per $1,000 principal amount of the Convertible Notes; (3) if specified distributions to holders of the Company's common stock are made, as set forth in the indenture governing the Convertible Notes (“Indenture”); (4) if a “change of control” or other “fundamental change,” each as defined in the Indenture, occurs; (5) if the Company chooses to redeem the Convertible Notes upon the occurrence of a “specified accounting change,” as defined in the Indenture; and (6) during the last month prior to maturity of the Convertible Notes. If the holders of the Convertible Notes exercise the conversion provisions under the circumstances set forth, the Company will need to remit the lower of the principal balance of the Convertible Notes or their conversion value to the holders in cash. As such, the Company would be required to classify the entire amount outstanding of the Convertible Notes as a current liability in the following quarter. The evaluation of the classification of amounts outstanding associated with the Convertible Notes will occur every quarter.

Upon conversion, a holder will receive an amount in cash equal to the lesser of (a) the principal amount of the Convertible Note or (b) the conversion value, determined in the manner set forth in the Indenture. If the conversion value exceeds the principal amount of the Convertible Note on the conversion date, the Company will also deliver, at its election, cash or the Company's common stock or a combination of cash and the Company's common stock for the conversion value in excess of the principal amount. In the event of a change of control or other fundamental change, the holders of the Convertible Notes may require the Company to purchase all or a portion of their Convertible Notes at a purchase price equal to 100% of the principal amount of the Convertible Notes, plus accrued and unpaid interest, if any. If a specified accounting change occurs, the Company may, at its option, redeem the Convertible Notes in whole for cash, at a price equal to 102% of the principal amount of the Convertible Notes, plus accrued and unpaid interest, if any. Holders of the Convertible Notes who convert their Convertible Notes in connection with a fundamental change or in connection with a redemption upon the occurrence of a specified accounting change may be entitled to a make-whole premium in the form of an increase in the conversion rate.

Pursuant to Emerging Issues Task Force (“EITF”) 90-19, “Convertible Bonds with Issuer Option to Settle for Cash upon Conversion” (“EITF 90-19”), EITF 00-19, “Accounting for Derivative Financial Instruments Indexed to, and Potentially Settled in, a Company's Own Stock” (“EITF 00-19”), and EITF 01-6, “The Meaning of Indexed to a Company's Own Stock” (“EITF 01-6”) (ASC Topic 815), the Convertible Notes are accounted for as convertible debt in the accompanying unaudited condensed consolidated balance sheet and the embedded conversion option in the Convertible Notes has not been accounted for as a separate derivative. For a discussion of the effects of the Convertible Notes and the Convertible Note Hedge and Sold Warrants discussed below on earnings per share, see Note 8.

In June 2008, the FASB ratified EITF Issue No. 07-5, “Determining Whether an Instrument (or an Embedded Feature) Is Indexed to an Entity’s Own Stock” (“EITF 07-5”) (ASC Topic 815). EITF 07-5 provides that an entity should use a two step approach to evaluate whether an equity-linked financial instrument (or embedded feature) is indexed to its own stock, including evaluating the instrument’s contingent exercise and settlement provisions. It also clarifies on the

impact of foreign currency denominated strike prices and market-based employee stock option valuation instruments on the evaluation. EITF 07-5 is effective for fiscal years beginning after December 15, 2008. The Company has evaluated the impact of EITF 07-5, and has determined it has no impact on the Company's results of operations and financial position in the Current Nine Months, and will have no impact on the Company's results of operations and financial position in future fiscal periods.

At September 30, 2009 and December 31, 2008, the amount of the Convertible Notes accounted for as a liability under FSP APB 14-1 was $244.0 million and $234.0 million, and is reflected on the unaudited condensed consolidated balance sheets as follows:

(000's omitted)	September 30, 2009 (unaudited)	December 31, 2008
Equity component carrying amount	$ 41,309	$ 41,309
Unamortized discount	43,474	53,501
Net debt carrying amount	244,026	233,999

For the Current Quarter and the Prior Year Quarter, the Company recorded additional non-cash interest expense of $3.3 million and $2.9 million, respectively, representing the difference between the stated interest rate on the Convertible Notes and the rate for a similar instrument that does not have a conversion feature. For the Current Nine Months and the Prior Year Nine Months, the Company recorded additional non-cash interest expense of approximately $9.5 million and approximately $8.6 million, respectively.

For both the Current Quarter and the Prior Year Quarter, contractual interest expense relating to the Convertible Notes was approximately $1.3 million. For both the Current Nine Months and the Prior Year Nine Months, contractual interest expense relating to the Convertible Notes was approximately $4.0 million.

The Convertible Notes do not provide for any financial covenants.

In connection with the sale of the Convertible Notes, the Company entered into hedges for the Convertible Notes ("Convertible Note Hedges") with respect to its common stock with two entities, one of which was Lehman Brothers OTC Derivatives Inc. ("Lehman OTC" and together with the other counterparty, the "Counterparties"). Pursuant to the agreements governing these Convertible Note Hedges, the Company purchased call options (the "Purchased Call Options") from the Counterparties covering up to approximately 10.4 million shares of the Company's common stock of which 40% were purchased from Lehman OTC. These Convertible Note Hedges are designed to offset the Company's exposure to potential dilution upon conversion of the Convertible Notes in the event that the market value per share of the Company's common stock at the time of exercise is greater than the strike price of the Purchased Call Options (which strike price corresponds to the initial conversion price of the Convertible Notes and is simultaneously subject to certain customary adjustments). On June 20, 2007, the Company paid an aggregate amount of approximately $76.3 million of the proceeds from the sale of the Convertible Notes for the Purchased Call Options, of which $26.7 million was included in the balance of deferred income tax assets at June 30, 2007 and is being recognized over the term of the Convertible Notes. As of September 30, 2009, the balance of deferred income tax assets related to this transaction was $14.8 million.

The Company also entered into separate warrant transactions with the Counterparties whereby the Company, pursuant to the agreements governing these warrant transactions, sold to the Counterparties warrants (the "Sold Warrants") to acquire up to 3.6 million shares of the Company's common stock of which 40% were sold to Lehman OTC, at a strike price of $42.40 per share of the Company's common stock. The Sold Warrants will become exercisable on September 28, 2012 and will expire by the end of 2012. The Company received aggregate proceeds of approximately $37.5 million from the sale of the Sold Warrants on June 20, 2007.

Pursuant to Emerging Issues Task Force (EITF) Issue No. 00-19 "Accounting for Derivative Financial Instruments Indexed to, and Potentially Settled in, a Company's Own Stock," (EITF 00-19), and EITF Issue No. 01-06, "The Meaning of Indexed to a Company's Own Stock" (EITF 01-06), the Convertible Note Hedge and the proceeds received from the issuance of the Sold Warrants were recorded as a charge and an increase, respectively, in additional paid-in capital in stockholders' equity as separate equity transactions. As a result of these transactions, the Company recorded a net reduction to additional paid-in-capital of $12.1 million in June 2007.

The Company has evaluated the impact of adopting EITF 07-5 as it relates to the Sold Warrants, and has determined it has no impact on the Company's results of operations and financial position in the Current Nine Months, and will have no impact on the Company's results of operations and financial position in future fiscal periods.

As the Convertible Note Hedge transactions and the warrant transactions were separate transactions entered into by the Company with the Counterparties, they are not part of the terms of the Convertible Notes and will not affect the holders' rights under the Convertible Notes. In addition, holders of the Convertible Notes will not have any rights with respect to the Purchased Call Options or the Sold Warrants.

If the market value per share of the Company's common stock at the time of conversion of the Convertible Notes is above the strike price of the Purchased Call Options, the Purchased Call Options entitle the Company to receive from the Counterparties net shares of the Company's common stock, cash or a combination of shares of the Company's common stock and cash, depending on the consideration paid on the underlying Convertible Notes, based on the excess of the then current market price of the Company's common stock over the strike price of the Purchased Call Options. Additionally, if the market price of the Company's common stock at the time of exercise of the Sold Warrants exceeds the strike price of the Sold Warrants, the Company will owe the Counterparties net shares of the Company's common stock or cash, not offset by the Purchased Call Options, in an amount based on the excess of the then current market price of the Company's common stock over the strike price of the Sold Warrants.

These transactions will generally have the effect of increasing the conversion price of the Convertible Notes to $42.40 per share of the Company's common stock, representing a 100% percent premium based on the last reported sale price of the Company's common stock of $21.20 per share on June 14, 2007.

On September 15, 2008 and October 3, 2008, respectively, Lehman Brothers Holdings Inc. ("Lehman Holdings") and its subsidiary, Lehman OTC, filed for protection under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court in the Southern District of New York ("Bankruptcy Court"). On September 17, 2009, the Company filed proofs of claim with the Bankruptcy Court relating to the Lehman OTC Convertible Note Hedges. The Company will continue to monitor the bankruptcy filings of Lehman Holdings and Lehman OTC with respect to such claims. The Company currently believes that the bankruptcy filings and their potential impact on these entities will not have a material adverse effect on the Company's financial position, results of operations or cash flows. The terms of the Convertible Notes and the rights of the holders of the Convertible Notes are not affected in any way by the bankruptcy filings of Lehman Holdings or Lehman OTC.

Term Loan Facility

In connection with the acquisition of the Rocawear brand, in March 2007, the Company entered into a $212.5 million credit agreement with Lehman Brothers Inc., as lead arranger and bookrunner, and Lehman Commercial Paper Inc. ("LCPI"), as syndication agent and administrative agent (the "Credit Agreement" or "Term Loan Facility"). At the time, the Company pledged to LCPI, for the benefit of the lenders under the Term Loan Facility (the "Lenders"), 100% of the capital stock owned by the Company in its subsidiaries, OP Holdings and Management Corporation, a Delaware corporation ("OPHM"), and Studio Holdings and Management Corporation, a Delaware corporation ("SHM"). The Company's obligations under the Credit Agreement are guaranteed by each of OPHM and SHM, as well as by two of its other subsidiaries, OP Holdings LLC, a Delaware limited liability company ("OP Holdings"), and Studio IP Holdings LLC, a Delaware limited liability company ("Studio IP Holdings").

On October 3, 2007, in connection with the acquisition of Official-Pillowtex LLC, a Delaware limited liability company ("Official-Pillowtex"), with the proceeds of the Convertible Notes, the Company pledged to LCPI, for the benefit of the Lenders, 100% of the capital stock owned by the Company in Mossimo, Inc., a Delaware corporation ("MI"), and Pillowtex Holdings and Management Corporation, a Delaware corporation ("PHM"), each of which guaranteed the Company's obligations under the Credit Agreement. Simultaneously with the acquisition of Official-Pillowtex, each of Mossimo Holdings LLC, a Delaware limited liability company ("Mossimo Holdings"), and Official-Pillowtex guaranteed the Company's obligations under the Credit Agreement. On September 10, 2008, PHM was converted into a Delaware limited liability company, Pillowtex Holdings and Management LLC ("PHMLLC"), and the Company's membership interest in PHMLLC was pledged to LCPI in place of the capital stock of PHM.

On December 17, 2007, in connection with the acquisition of the Starter brand, the Company borrowed an additional $63.2 million pursuant to the Term Loan Facility (the "Additional Borrowing"). The net proceeds received by the Company from the Additional Borrowing were $60 million.

As of September 30, 2009, the Company may borrow an additional $36.8 million under the terms of the Term Loan Facility.

The guarantees under the Term Loan Facility are secured by a pledge to LCPI, for the benefit of the Lenders, of, among other things, the Ocean Pacific/OP, Danskin, Rocawear, Mossimo, Cannon, Royal Velvet, Fieldcrest, Charisma, Starter and Waverly trademarks and related intellectual property assets, license agreements and proceeds therefrom. Amounts outstanding under the Term Loan Facility bear interest, at the Company's option, at the Eurodollar rate or the prime rate, plus an applicable margin of 2.25% or 1.25%, as the case may be, per annum. The Credit Agreement provides that the Company is required to repay the outstanding term loan in equal quarterly installments in annual aggregate amounts equal to 1.00% of the aggregate principal amount of the loans outstanding, subject to adjustment for prepayments, in addition to an annual payment equal to 50% of the excess cash flow from the subsidiaries subject to the Term Loan Facility, as described in the Credit Agreement, with any remaining unpaid principal balance to be due on April 30, 2013 (the "Loan Maturity Date"). Upon completion of the Convertible Notes offering, the Loan Maturity Date was accelerated to January 2, 2012. The Term Loan Facility can be prepaid, without penalty, at any time. On March 11, 2008, the Company paid to LCPI, for the benefit of the Lenders, $15.6 million, representing 50% of the excess cash flow from the subsidiaries subject to the Term Loan Facility for the year ended December 31, 2007. As a result of such payment, the Company is no longer required to pay the quarterly installments described above. The Term Loan Facility requires the Company to repay the principal amount of the term loan outstanding in an amount equal to 50% of the excess cash flow of the subsidiaries subject to the Term Loan Facility for the most recently completed fiscal year. On March 13, 2009, the Company paid to LCPI, for the benefit of the Lenders, $38.7 million, representing 50% of the excess cash flow from the subsidiaries subject to the Term Loan Facility for the year ended December 31, 2008. As of September 30, 2009, $35.4 million has been classified as current portion of long-term debt, which represents 50% of the excess cash flow for the Current Nine Months of the

subsidiaries subject to the Term Loan Facility. The aggregate amount of 50% of the excess cash flow for all four quarters in 2009 will be paid during the first quarter of 2010. For the Current Quarter and the Current Nine Months, the effective interest rate of the Term Loan Facility was 2.60% and 3.45%, respectively. At September 30, 2009, the balance of the Term Loan Facility was $217.5 million. As of September 30, 2009, the Company was in compliance with all material covenants set forth in the Credit Agreement. The $272.5 million in proceeds from the Term Loan Facility were used by the Company as follows: $204.0 million was used to pay the cash portion of the initial consideration for the acquisition of the Rocawear brand; $2.1 million was used to pay the costs associated with the Rocawear acquisition; $60 million was used to pay the consideration for the acquisition of the Starter brand; and $3.9 million was used to pay costs associated with the Term Loan Facility. The costs of $3.9 million relating to the Term Loan Facility have been deferred and are being amortized over the life of the loan, using the effective interest method. As of September 30, 2009, the subsidiaries subject to the Term Loan Facility were Studio IP Holdings, SHM, OP Holdings, OPHM, Mossimo Holdings, MI, Official-Pillowtex and PHMLLC (collectively, the “Term Loan Facility Subsidiaries”). As of September 30, 2009, the Term Loan Facility Subsidiaries, directly or indirectly, owned the following trademarks, excluding certain territories covered by the Iconix China and Iconix Latin America joint ventures (see Note 3): Danskin, Rocawear, Starter, Ocean Pacific/OP, Mossimo, Cannon, Royal Velvet, Fieldcrest, Charisma and Waverly.

On July 26, 2007, the Company purchased a hedge instrument to mitigate the cash flow risk of rising interest rates on the Term Loan Facility. See Note 4 for further information.

Asset-Backed Notes

The financing for certain of the Company's acquisitions has been accomplished through private placements by its subsidiary, IP Holdings LLC ("IP Holdings") of asset-backed notes ("Asset-Backed Notes") secured by intellectual property assets (trade names, trademarks, license agreements and payments and proceeds with respect thereto relating to the Candie’s, Bongo, Joe Boxer, Rampage, Mudd and London Fog brands) of IP Holdings. At September 30, 2009, the balance of the Asset-Backed Notes was $100.6 million, $23.7 million of which is included in the current portion of long-term debt on the unaudited condensed consolidated balance sheet.

Cash on hand in the bank account of IP Holdings is restricted at any point in time up to the amount of the next debt principal and interest payment required under the Asset-Backed Notes. Accordingly, $7.4 million and $0.9 million as of September 30, 2009 and December 31, 2008, respectively, are included as restricted cash within the Company's current assets. Further, in connection with IP Holdings' issuance of Asset-Backed Notes, a reserve account has been established and the funds on deposit in such account will be applied to the final principal payment with respect to the Asset-Backed Notes. Accordingly, as of September 30, 2009 and December 31, 2008, $15.9 million has been classified as non-current and disclosed as restricted cash within other assets on the Company's balance sheets.

Interest rates and terms on the outstanding principal amount of the Asset-Backed Notes as of September 30, 2009 are as follows: $34.5 million principal amount bears interest at a fixed interest rate of 8.45% with a six year term, $15.3 million principal amount bears interest at a fixed rate of 8.12% with a six year term, and $50.8 million principal amount bears interest at a fixed rate of 8.99% with a six and a half year term. The Asset-Backed Notes have no financial covenants by which the Company or its subsidiaries need comply. The aggregate principal amount of the Asset-Backed Notes will be fully paid by February 22, 2013.

Neither the Company nor any of its subsidiaries (other than IP Holdings) is obligated to make any payment with respect to the Asset-Backed Notes, and the assets of the Company and its subsidiaries (other than IP Holdings) are not available to IP Holdings' creditors. The assets of IP Holdings are not available to the creditors of the Company or its subsidiaries (other than IP Holdings).

Sweet Note

On April 23, 2002, the Company acquired the remaining 50% interest in Unzipped (see Note 9) from Sweet Sportswear, LLC (“Sweet”) for a purchase price comprised of 3,000,000 shares of its common stock and $11.0 million in debt, which was evidenced by the Company’s issuance of the 8% Senior Subordinated Note due in 2012 (“Sweet Note”). Prior to August 5, 2004, Unzipped was managed by Sweet pursuant to the Management Agreement (as defined in Note 9), which obligated Sweet to manage the operations of Unzipped in return for, commencing in the fiscal year ended January 31, 2003 (“fiscal 2003”), an annual management fee based upon certain specified percentages of net income achieved by Unzipped during the three- year term of the agreement. In addition, Sweet guaranteed that the net income, as defined in the agreement, of Unzipped would be no less than $1.7 million for each year during the term, commencing with fiscal 2003. In the event that the guarantee was not met for a particular year, Sweet was obligated under the Management Agreement to pay the Company the difference between the actual net income of Unzipped, as defined, for such year and the guaranteed $1.7 million. That payment, referred to as the shortfall payment, could be offset against the amounts due under the Sweet Note at the option of either the Company or Sweet. As a result of such offsets, the balance of the Sweet Note was reduced by the Company to $3.1 million as of December 31, 2006 and $3.0 million as of December 31, 2005 and was reflected in Long- term debt. This note bears interest at the rate of 8% per year and matures in April 2012.

In November 2007, the Company received a signed judgment related to the Sweet Sportswear/Unzipped litigation. See Note 11.

The judgment stated that the Sweet Note (originally $11.0 million when issued by the Company upon the acquisition of Unzipped from Sweet in 2002) should total approximately $12.2 million as of December 31, 2007. The recorded balance of the Sweet Note, prior to any adjustments related to the judgment was approximately $3.2 million. The Company increased the Sweet Note by approximately $6.2 million and recorded the expense as an expense related to specific litigation. The Company further increased the Sweet Note by approximately $2.8 million to record the related interest and included the charge in interest expense. As of September 30, 2009, the Sweet Note is approximately $12.2 million and included in the current portion of long-term debt.

In addition, in November 2007 the Company was awarded a judgment of approximately $12.2 million for claims made by it against Hubert Guez and Apparel Distribution Services, Inc. As a result, the Company recorded a receivable of approximately $12.2 million and recorded the benefit in special charges during the year ended December 31, 2007. This receivable is included in other assets - non-current and bears interest, which was accrued for during the Current Quarter and the Prior Year Quarter, at the rate of 8% per year.

Debt Maturities

As of September 30, 2009, the Company's debt maturities on a calendar year basis are as follows:

(000's omitted)	Total	October 1 through December 31, 2009	2010	2011	2012	2013
Convertible Notes1	$ 244,026	$ -	$ -	$ -	$ 244,026	$ -
Term Loan Facility	217,484	-	35,354	-	182,130	-
Asset-Backed Notes	100,604	5,738	24,216	26,380	33,468	10,802
Sweet Note	12,186	12,186	-	-	-	-
Total Debt	$ 574,300	$ 17,924	59,570	26,380	459,624	10,802

1 reflects the net debt carrying amount of the Convertible Notes on the unaudited condensed consolidated balance sheet as of September 30, 2009, in accordance with FSP APB 14-1. The principal amount owed to the holders of the Convertible Notes is $287.5 million.

7. Stockholders' Equity

Public Offering

On June 9, 2009, the Company completed a public offering of common stock pursuant to a registration statement that had been declared effective by the Securities and Exchange Commission. All 10,700,000 shares of common stock offered by the Company in the final prospectus were sold at $15.00 per share. Net proceeds to the Company from the offering amounted to approximately $152.8 million.

2009 Equity Incentive Plan

On August 13, 2009, the Company's stockholders approved the Company's 2009 Equity Incentive Plan ("2009 Plan"). The 2009 Plan authorizes the granting of common stock options or other stock-based awards covering up to 3,000,000 shares of the Company's common stock. All employees, directors, consultants and advisors of the Company, including those of the Company's subsidiaries, are eligible to be granted Non Qualified Stock Options and other stock-based awards under the 2009 Plan, and employees are also eligible to be granted Incentive Stock Options under the 2009 Plan. No new awards may be granted under the Plan after August 13, 2019.

Stock Options

The Black-Scholes option valuation model was developed for use in estimating the fair value of traded options which have no vesting restrictions and are fully transferable. In addition, option valuation models require the input of highly subjective assumptions including the expected stock price volatility. Because the Company's employee stock options have characteristics significantly different from those of traded options, and because changes in the subjective input assumptions can materially affect the fair value estimate, in management's opinion, the existing models do not necessarily provide a reliable single measure of the fair value of its employee stock options.

The fair value for these options and warrants was estimated at the date of grant using a Black-Scholes option-pricing model with the following weighted-average assumptions:

Expected Volatility	30 - 50%
Expected Dividend Yield	0%
Expected Life (Term)	3 - 7 years
Risk-Free Interest Rate	3.00 - 4.75%

The Company has estimated its forfeiture rate at 0%. The options that the Company granted under its plans expire at various times, either five, seven or ten years from the date of grant, depending on the particular grant.

Summaries of the Company's stock options, warrants and performance related options activity, and related information for the Current Nine Months are as follows:

Options	Options	Weighted-Average Exercise Price
Outstanding January 1, 2009	3,895,138	$ 4.29
Granted	20,000	15.35
Canceled	(8,000)	16.96
Exercised	(828,059)	3.84
Expired/Forfeited	-	-

Outstanding September 30, 2009	3,079,079	$	5.00
Exercisable at September 30, 2009	3,074,079	$	4.99

Warrants

	Warrants	Weighted-Average Exercise Price
Outstanding January 1, 2009	286,900	$ 16.99
Granted	-	-
Canceled/Forfeited	-	-
Exercised	-	-
Expired/Forfeited	-	-
Outstanding September 30, 2009	286,900	$ 16.99
Exercisable at September 30, 2009	286,900	16.99

All warrants issued in connection with acquisitions are recorded at fair market value using the Black Scholes model and are recorded as part of purchase accounting. Certain warrants are exercised using the cashless method.

The Company values other warrants issued to non-employees at the commitment date at the fair market value of the instruments issued, a measure which is more readily available than the fair market value of services rendered, using the Black Scholes model. The fair market value of the instruments issued is expensed over the vesting period.

Restricted stock

Compensation cost for restricted stock is measured as the excess, if any, of the quoted market price of the Company's stock at the date the common stock is issued over the amount the employee must pay to acquire the stock (which is generally zero). The compensation cost, net of projected forfeitures, estimated at 0%, is recognized over the period between the issue date and the date any restrictions lapse, with compensation cost for grants with a graded vesting schedule recognized on a straight-line basis over the requisite service period for each separately vesting portion of the award as if the award was, in substance, multiple awards. The restrictions do not affect voting and dividend rights.

The following tables summarize information about unvested restricted stock transactions:

	Shares	Weighted-Average Grant Date Fair Value
Non-vested, January 1, 2009	1,513,983	$ 18.96
Granted	659,771	16.05
Vested	(79,486)	13.01
Canceled	(44,369)	18.66
Non-vested, September 30, 2009	2,049,899	$ 18.26

Stock based compensation expense related to restricted stock grants for the Current Quarter and Prior Year Quarter was $1.7 million and $1.9 million, respectively, and for the Current Nine Months and the Prior Year Nine Months was approximately $5.0 million and $6.1 million, respectively. An additional amount of $20.4 million is expected to be expensed evenly over a period of approximately 1-4 years. During the Current Nine Months and Prior Year Nine Months, the Company withheld shares of its common stock valued at $0.2 million and $0.7 million, respectively, in connection with net share settlement of restricted stock grants and option exercises.

Stockholder Rights Plan

In January 2000, the Company's Board of Directors adopted a stockholder rights plan. Under the plan, each stockholder of common stock received a dividend of one right for each share of the Company's outstanding common stock, entitling the holder to purchase one thousandth of a share of Series A Junior Participating Preferred Stock, par value, $0.01 per share of the Company, at an initial exercise price of $6.00. The rights become exercisable and will trade separately from the common stock ten business days after any person or group acquires 15% or more of the common stock, or ten business days after any person or group announces a tender offer for 15% or more of the outstanding common stock.

Stock Repurchase Program

On November 3, 2008, the Company announced that its Board of Directors had authorized the repurchase of up to $75 million of the Company's common stock over a period of approximately three years. This authorization replaces any prior plan or authorization. The current plan does not obligate the Company to repurchase any specific number of shares and may be suspended at any time at management's discretion. During the Current Nine Months, the Company repurchased 200,000 shares for approximately $1.5 million. No shares were repurchased by the Company during the Prior Year Nine Months.

Securities Available for Issuance

As of September 30, 2009, 68,940 common shares were available for issuance of additional awards under the Company's 2006 Equity Incentive Plan, and 2,371,243 common shares were available for issuance of additional awards under the Company's 2009 Equity Incentive Plan.

8. Earnings Per Share

Basic earnings per share includes no dilution and is computed by dividing net income available to common stockholders by the weighted average number of common shares outstanding for the period. Diluted earnings per share reflect, in periods in which they have a dilutive effect, the effect of restricted stock-based awards and common shares issuable upon exercise of stock options and warrants. The difference between basic and diluted weighted-average common shares results from the assumption that all dilutive stock options outstanding were exercised and all Convertible Notes have been converted into common stock.

For the Current Quarter, of the total potentially dilutive shares related to restricted stock-based awards, stock options and warrants, 2.1 million were anti-dilutive, compared to 2.1 million for the Prior Year Quarter. For the Current Nine Months, of the total potentially dilutive shares related to restricted stock-based awards, stock options and warrants, 2.7 million were anti-dilutive, compared to 1.9 million for the Prior Year Nine Months.

For the Current Quarter, of the performance related restricted stock-based awards issued in connection with the Company's employment agreement with its chairman, chief executive officer and president, 1.5 million of such awards (which is included in the total 2.1 million anti-dilutive stock-based awards described above) were anti-dilutive and therefore not included in this calculation.

For the Current Nine Months, of the performance related restricted stock-based awards issued in connection with the Company's employment agreement with its chairman, chief executive officer and president, 2.0 million of such awards (which is included in the total 2.7 million anti-dilutive stock-based awards described above) were anti-dilutive and therefore not included in this calculation.

Warrants issued in connection with the Company's Convertible Notes financing were anti-dilutive and therefore not included in this calculation. Portions of the Convertible Notes that would be subject to conversion to common stock were anti-dilutive as of September 30, 2009 and therefore not included in this calculation.

A reconciliation of shares used in calculating basic and diluted earnings per share follows:

(000's omitted)	For the Three Months Ended September 30, (unaudited)		For the Nine Months Ended September 30, (unaudited)	
	2009	2008	2009	2008
Basic	71,336	57,841	63,850	57,662
Effect of exercise of stock options	2,436	3,106	2,246	3,426
Effect of contingent common stock issuance	-	144	48	144
Effect of assumed vesting of restricted stock	298	-	282	9
Diluted	74,070	61,091	66,426	61,241

9. Unzipped Apparel, LLC ("Unzipped")

On October 7, 1998, the Company formed Unzipped with its then joint venture partner, Sweet (as previously defined in Note 6), the purpose of which was to market and distribute apparel under the Bongo label. The Company and Sweet each had a 50% interest in Unzipped. Pursuant to the terms of the joint venture, the Company licensed the Bongo trademark to Unzipped for use in the design, manufacture and sale of certain designated apparel products.

On April 23, 2002, the Company acquired the remaining 50% interest in Unzipped from Sweet for a purchase price of three million shares of the Company's common stock and $11 million in debt evidenced by the Sweet Note. See Note

6. In connection with the acquisition of Unzipped, the Company filed a registration statement with the Securities and Exchange Commission ("SEC") for the three million shares of the Company's common stock issued to Sweet, which was declared effective by the SEC on July 29, 2003.

Prior to August 5, 2004, Unzipped was managed by Sweet pursuant to a management agreement (the “Management Agreement”). Unzipped also had a supply agreement with Azteca Productions International, Inc. ("Azteca") and a distribution agreement with Apparel Distribution Services, LLC ("ADS"). All of these entities are owned or controlled by Hubert Guez.

On August 5, 2004, Unzipped terminated the Management Agreement with Sweet, the supply agreement with Azteca and the distribution agreement with ADS and commenced a lawsuit against Sweet, Azteca, ADS and Hubert Guez. See Note 10.

There were no transactions with these related parties during the Current Quarter or the Prior Year Quarter.

In November 2007, a judgment was entered in the Unzipped litigation, pursuant to which the $3.1 million in accounts payable to ADS/Azteca (previously shown as “accounts payable - subject to litigation”) was eliminated and recorded in the income statement as a benefit to the “expenses related to specific litigation”.

As a result of the judgment, in the year ended December 31, 2007 ("fiscal 2007") the balance of the $11.0 million principal amount Sweet Note, originally issued by the Company upon the acquisition of Unzipped from Sweet in 2002, including interest, was increased from approximately $3.2 million to approximately $12.2 million as of December 31, 2007. Of this increase, approximately $6.2 million was attributed to the principal of the Sweet Note and the expense was recorded as an expense related to specific litigation. The remaining $2.8 million of the increase was attributed to related interest on the Sweet Note and recorded as interest expense. As of September 30, 2009, the full $12.2 million current balance of the Sweet Note and $1.7 million of accrued interest are included in the current portion of long term debt and accounts payable and accrued expenses, respectively.

In addition, in November 2007 the Company was awarded a judgment of approximately $12.2 million for claims made by it against Hubert Guez and ADS. As a result, the Company recorded a receivable of approximately $12.2 million and recorded the benefit in special charges for fiscal 2007. As of September 30, 2009, this receivable and the associated accrued interest of $1.7 million are included in other assets - non-current.

10. Expenses Related to Specific Litigation

Expenses related to specific litigation consist of legal expenses and costs related to the Unzipped litigation. For the Prior Year Quarter, the Company recorded expenses related to specific litigation of $0.3 million; there were no such expenses during the Current Quarter. For the Current Nine Months and Prior Year Nine Months, the Company recorded expenses related to specific litigation of $0.1 million and $0.7 million, respectively. See Note 9 and Note 11for information relating to Unzipped.

11. Commitments and Contingencies

Sweet Sportswear/Unzipped litigation

In August 2004, the Company commenced a lawsuit in the Superior Court of California, Los Angeles County, against Unzipped's former manager, supplier and distributor Sweet, Azteca and ADS and Hubert Guez, a principal of these entities and former member of the Company's board of directors (collectively referred to as the Guez defendants) alleging numerous causes of action, including fraud, breach of contract, breach of fiduciary duty and trademark infringement. Sweet, Azteca and ADS filed counterclaims against the Company claiming damages resulting from, among other things, a variety of alleged contractual breaches.

In April 2007, a jury returned a verdict of approximately $45 million in the Company's favor on every claim that the Company pursued, and against the Guez defendants on every counterclaim they asserted. Additionally, the jury found that all of the Guez defendants acted with "malice, fraud or oppression" with regard to each of the tort claims asserted by the Company and, in addition, awarded the Company $5 million in punitive damages against Guez personally.

In November 2007, the Court, among other things, reduced the total damages awarded against the Guez defendants by approximately 50% and reduced the amount of punitive damages assessed against Guez to $4 million. The Court also entered judgments against Guez in the amount of approximately $11 million and ADS in the amount of approximately $1.3 million. It also entered judgment against all of the Guez defendants on every counterclaim that they pursued in the litigation, including ADS's and Azteca's unsuccessful efforts to recover against Unzipped any account balances claimed to be owed, totaling approximately $3.5 million and Sweet's efforts to accelerate the principal balance of a note and other fees totaling approximately $15 million (these orders are collectively referred to as the "judgments"). The Court also issued an order confirming an additional aggregate of approximately $6.8 million of the jury's verdicts against Sweet and Azteca (referred to as the "confirmed verdicts") but declined to enter judgment against these entities since it had ordered a new trial with regard to certain of the jury's other damage awards against these entities.

In May 2008, the Court awarded the Company statutory litigation costs (jointly and severally against the Guez defendants) of approximately $650,000. In October 2008, the Court granted the Company's petition for attorneys' fees with respect to approximately $7.7 million of fees (mostly against Sweet and Azteca), but did not award any non-statutory (contractual) costs. In December 2008, the earlier judgments were amended to add the cost award against all the Guez defendants, as well as $100,000 of attorneys' fees awarded against ADS.

In sum, the trial court entered judgment in the Company's favor of over $12 million and has confirmed, but not reduced to judgment, additional amounts owed of approximately $15 million, which consists of the confirmed verdicts plus the fee and cost awards against Sweet and Azteca. All of these amounts accrue interest at an annual rate of 10%. All parties have filed notices of appeal. The Company's notice of appeal related to, among other things, those parts of the jury's verdicts vacated by the Court. In December 2008, the Company also filed a notice of appeal from the Court's orders relating to attorneys' fees awarded against ADS, statutory costs and non-statutory costs. The Guez defendants have posted an aggregate of approximately $51.7 million in undertakings with the Court to secure the judgments. The Company is unable to pursue collection of the monetary portions of the judgments during the pendency of the appeals.

The Company intends to vigorously pursue its appeals, and vigorously defend against the Guez defendants' appeal.

Normal Course litigation

From time to time, the Company is also made a party to litigation incurred in the normal course of business. While any litigation has an element of uncertainty, the Company believes that the final outcome of any of these routine matters will not have a material effect on the Company's financial position or future liquidity.

12. Related Party Transactions

Kenneth Cole Productions, Inc.

On May 1, 2003, the Company granted Kenneth Cole Productions, Inc. the exclusive worldwide license to design, manufacture, sell, distribute and market footwear under its Bongo brand. The chairman of Kenneth Cole Productions is Kenneth Cole, who is the brother of Neil Cole, the Company's Chief Executive Officer and President. During the Current Nine Months and Prior Year Nine Months, the Company earned $0.3 million and $0.9 million, respectively, in royalties from Kenneth Cole Productions. This license will terminate effective December 31, 2009.

Candie’s Foundation

The Candie's Foundation, a charitable foundation founded by Neil Cole for the purpose of raising national awareness about the consequences of teenage pregnancy, owed the Company $0.7 million and $0.5 million at September 30, 2009 and December 31, 2008, respectively. The Candies Foundation has a commitment from a licensee of the Company to receive a contribution of approximately $0.7 million in February 2010. The Candie's Foundation intends to pay-off the entire borrowing from the Company during 2009, although additional advances will be made as and when necessary.

Travel

The Company recorded expenses of approximately $253,000 and $303,000 for Current Nine Months and Prior Year Nine Months, respectively, for the hire and use of aircraft solely for business purposes owned by a company in which the Company’s chairman, chief executive officer and president is the sole owner. Management believes that all transactions were made on terms and conditions no less favorable than those available in the marketplace from unrelated parties.

Consulting Services

During the Current Quarter, the Company engaged a consulting and advisory firm, a principal of which is a director of the Company. During the Current Quarter, the Company recorded an expense of $10,000 for these services.

13. Segment and Geographic Data

The Company has one reportable segment, licensing and commission revenue generated from its brands. The geographic regions consist of the United States and Other (which principally represents Canada, Japan and Europe). Long lived assets are substantially all located in the United States. Revenues attributed to each region are based on the location in which licensees are located.

The net revenues by type of license and information by geographic region are as follows:

(000's omitted)	For the three months ended September 30, (unaudited)		For the nine months ended September 30, (unaudited)	
	2009	2008	2009	2008
Revenues by product line:				
Direct-to-retail license	$ 29,908	$ 11,455	$ 83,934	$ 41,229
Wholesale license	24,850	40,247	76,888	116,658
Other	4,609	3,433	5,454	4,615
	$ 59,367	$ 55,135	$ 166,276	$ 162,502

Revenues by geographic region:				
United States	$ 53,199	$ 48,930	$ 154,914	$ 149,722
Other	6,168			