



Edgar Filing: ACACIA RESEARCH CORP - Form 10-Q

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

Accelerated filer

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

Smaller reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes  No

As of October 29, 2010, 34,855,119 shares of the registrant's common stock, \$0.001 par value, were issued and outstanding.

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ACACIA RESEARCH CORPORATION  
Table Of Contents

Part I. Financial Information

Item 1.	<u>Financial Statements</u>	<u>1</u>
	<u>Consolidated Balance Sheets as of September 30, 2010 and December 31, 2009 (Unaudited)</u>	<u>1</u>
	<u>Consolidated Statements of Operations for the Three Months and Nine Months Ended September 30, 2010 and 2009 (Unaudited)</u>	<u>2</u>
	<u>Consolidated Statements of Cash Flows for the Nine Months Ended September 30, 2010 and 2009 (Unaudited)</u>	<u>3</u>
	<u>Notes to Consolidated Financial Statements (Unaudited)</u>	<u>4</u>
Item 2.	<u>Management's Discussion and Analysis of Financial Condition and Results of Operations</u>	<u>12</u>
Item 3.	<u>Quantitative and Qualitative Disclosures About Market Risk</u>	<u>25</u>
Item 4.	<u>Controls and Procedures</u>	<u>25</u>

Part II. Other Information 26

Item 6.	<u>Exhibits</u>	<u>26</u>
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Signatures	<u>27</u>
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Exhibit Index	<u>28</u>
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## PART I--FINANCIAL INFORMATION

## Item 1. FINANCIAL STATEMENTS

## ACACIA RESEARCH CORPORATION AND SUBSIDIARIES

## CONSOLIDATED BALANCE SHEETS

(In thousands, except share and per share information)

(Unaudited)

	September 30, 2010	December 31, 2009
<b>ASSETS</b>		
Current assets:		
Cash and cash equivalents	\$83,426	\$51,735
Accounts receivable	38,980	5,110
Prepaid expenses and other current assets	1,779	1,081
Total current assets	124,185	57,926
Property and equipment, net of accumulated depreciation	136	163
Patents, net of accumulated amortization	15,242	17,510
Investments - noncurrent	2,152	2,152
Other assets	514	505
	\$142,229	\$78,256
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
Current liabilities:		
Accounts payable and accrued expenses	\$8,367	\$8,006
Royalties and contingent legal fees payable	24,862	12,402
Deferred revenues	—	1,510
Total current liabilities	33,229	21,918
Other liabilities	290	369
Total liabilities	33,519	22,287
Commitments and contingencies (Note 5)		
Stockholders' equity:		
Preferred stock, par value \$0.001 per share; 10,000,000 shares authorized; no shares issued or outstanding	—	—
Common stock, par value \$0.001 per share; 100,000,000 shares authorized; 34,762,019 and 31,912,066 shares issued and outstanding as of September 30, 2010 and December 31, 2009, respectively	35	32
Additional paid-in capital	186,044	173,672
Accumulated deficit	(80,921)	(120,242)
Total Acacia Research Corporation stockholders' equity	105,158	53,462
Noncontrolling interests in operating subsidiaries	3,552	2,507

Total stockholders' equity	108,710	55,969
	\$142,229	\$78,256

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

1

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ACACIA RESEARCH CORPORATION AND SUBSIDIARIES  
CONSOLIDATED STATEMENTS OF OPERATIONS  
(In thousands, except share and per share information)  
(Unaudited)

	Three Months Ended		Nine Months Ended	
	September 30,	September 30,	September 30,	September 30,
	2010	2009	2010	2009
Revenues	\$63,949	\$ 16,169	\$118,727	\$ 47,482
Operating costs and expenses:				
Cost of revenues:				
Inventor royalties	14,508	4,673	21,296	12,069
Contingent legal fees	9,739	3,799	17,611	10,521
Litigation and licensing expenses - patents	2,890	3,957	11,019	8,418
Amortization of patents	1,963	1,245	5,542	3,370
Marketing, general and administrative expenses (including non-cash stock compensation expense of \$1,615 and \$5,574 for the three and nine months ended September 30, 2010, respectively and \$1,472 and \$5,573 for the three and nine months ended September 30, 2009, respectively)	6,353	4,709	18,741	15,835
Research, consulting and other expenses - business development	461	363	1,286	1,173
Total operating costs and expenses	35,914	18,746	75,495	51,386
Operating income (loss)	28,035	(2,577 )	43,232	(3,904 )
Other income:				
Interest income	44	23	83	122
Gain on foreign currency translation	—	—	—	201
Gain on investments	—	201	—	235
Total other income	44	224	83	558
Income (loss) from operations before provision for income taxes	28,079	(2,353 )	43,315	(3,346 )
Provision for income taxes	(297 )	(47 )	(605 )	(124 )
Net income (loss) including noncontrolling interests in operating subsidiaries	27,782	(2,400 )	42,710	(3,470 )
Net income attributable to noncontrolling interests in operating subsidiaries	(3,107 )	(1,029 )	(3,389 )	(3,150 )
Net income (loss) attributable to Acacia Research Corporation	\$24,675	\$ (3,429 )	\$39,321	\$ (6,620 )
Net income (loss) per common share attributable to Acacia Research Corporation:				
Basic income (loss) per share	\$0.75	\$ (0.11 )	\$1.24	\$ (0.22 )
Diluted income (loss) per share	\$0.70	\$ (0.11 )	\$1.14	\$ (0.22 )
Weighted average number of shares outstanding, basic	32,794,553	30,071,492	31,776,074	29,818,956
Weighted average number of shares outstanding, diluted	35,105,353	30,071,492	34,448,666	29,818,956

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

2

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ACACIA RESEARCH CORPORATION AND SUBSIDIARIES  
CONSOLIDATED STATEMENTS OF CASH FLOWS

(In thousands)

(Unaudited)

	Nine Months Ended	
	September 30, 2010	September 30, 2009
Cash flows from operating activities:		
Net income (loss) including noncontrolling interests in operating subsidiaries	\$42,710	\$(3,470)
Adjustments to reconcile net income (loss) including noncontrolling interests in operating subsidiaries to net cash provided by operating activities:		
Depreciation and amortization	5,608	3,465
Non-cash stock compensation	5,574	5,573
Gain on investments	—	(235)
Changes in assets and liabilities:		
Accounts receivable	(33,870)	901
Prepaid expenses and other assets	(707)	(4,378)
Accounts payable and accrued expenses	82	2,574
Royalties and contingent legal fees payable	12,460	1,774
Deferred revenues	(1,510)	(308)
Net cash provided by operating activities	30,347	5,896
Cash flows from investing activities:		
Purchase of property and equipment	(39)	(60)
Sale of available-for-sale investments	—	990
Patent acquisition costs	(3,074)	(9,162)
Net cash used in investing activities	(3,113)	(8,232)
Cash flows from financing activities:		
Distributions to noncontrolling interests in operating subsidiary	(2,788)	(2,121)
Contributions from noncontrolling interests in operating subsidiary	444	—
Repurchased restricted common stock	—	(1,107)
Proceeds from the exercise of stock options	6,801	85
Net cash provided by (used in) financing activities	4,457	(3,143)
Increase (decrease) in cash and cash equivalents	31,691	(5,479)
Cash and cash equivalents, beginning	51,735	48,279
Cash and cash equivalents, ending	\$83,426	\$42,800



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

3

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ACACIA RESEARCH CORPORATION AND SUBSIDIARIES  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)

1. DESCRIPTION OF BUSINESS AND BASIS OF PRESENTATION

Description of Business. As used herein, “Acacia” and the “Company” refer to Acacia Research Corporation and/or its wholly and majority-owned operating subsidiaries. All intellectual property acquisition, development, licensing and enforcement activities are conducted solely by certain of Acacia's wholly and majority-owned operating subsidiaries.

Acacia's operating subsidiaries acquire, develop, license and otherwise enforce patented technologies. Acacia's operating subsidiaries generate revenues and related cash flows from the granting of intellectual property rights for the use of, or pertaining to, patented technologies that such operating subsidiaries own or control. Acacia's operating subsidiaries assist patent owners with the prosecution and development of their patent portfolios, the protection of their patented technologies from unauthorized use, the generation of revenue from users of their patented technologies and, if necessary, the enforcement against unauthorized users of their patented technologies. Currently, on a consolidated basis, Acacia's operating subsidiaries own or control the rights to over 160 patent portfolios, which include U.S. patents and certain foreign counterparts, covering technologies used in a wide variety of industries.

Basis of Presentation. The accompanying consolidated financial statements include the accounts of Acacia and its wholly and majority-owned subsidiaries. Intercompany transactions and balances have been eliminated in consolidation.

Noncontrolling interests in Acacia's majority-owned operating subsidiaries are separately presented as a component of stockholders' equity on the consolidated statements of financial position. Consolidated net income or loss is adjusted to include the net income or loss attributed to the noncontrolling interests in majority-owned operating subsidiaries in the consolidated statements of operations. Refer to accompanying consolidated financial statements for related balances, if any, for the periods presented. There were no net assets attributable to noncontrolling interests at January 1, 2009.

The accompanying consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America for interim financial information and with the instructions to Form 10-Q and Rule 10-01 of Regulation S-X. Accordingly, certain information and footnotes required by accounting principles generally accepted in the United States of America in annual financial statements have been omitted or condensed in accordance with quarterly reporting requirements of the Securities and Exchange Commission (“SEC”). These interim consolidated financial statements should be read in conjunction with the consolidated financial statements and notes thereto for the year ended December 31, 2009, as reported by Acacia in its Annual Report on Form 10-K. The year-end consolidated balance sheet data was derived from audited financial statements but does not include all disclosures required by accounting principles generally accepted in the United States of America.

The consolidated financial statements of Acacia include all adjustments of a normal recurring nature which, in the opinion of management, are necessary for a fair statement of Acacia's financial position as of September 30, 2010, and results of its operations and its cash flows for the interim periods presented. The results of operations for the three and nine months ended September 30, 2010 are not necessarily indicative of the results to be expected for the entire fiscal year.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Change in Accounting Policy for Term Agreements. Certain revenue agreements provide for the payment of a minimum upfront fee at the inception of each contractual term in consideration for the respective intellectual property

rights granted, hereinafter referred to as “term agreements.” Effective October 1, 2009, the Company elected to change its method of accounting for its term agreements to recognize revenue when delivery of the intellectual property rights and all other arrangement deliverables has substantially occurred, which is typically at the time of execution of the related term agreement, or upon receipt of the applicable minimum upfront renewal payment, and when all other revenue recognition criteria, as described below, have been met. Prior to the change in method of accounting, fees for term agreements were deferred and amortized to revenue on a straight-line basis over the applicable contractual term.

4

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ACACIA RESEARCH CORPORATION AND SUBSIDIARIES  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)

The effect of the change in accounting policy on Acacia's previously reported consolidated financial statement line items for the three and nine months ended September 30, 2009 was as follows (in thousands, except per share data):

	Three Months Ended September 30, 2009			Nine Months Ended September 30, 2009		
	As Reported	As Adjusted	Effect of Change	As Reported	As Adjusted	Effect of Change
Revenues	\$12,831	\$16,169	\$3,338	\$40,512	\$47,482	\$6,970
Inventor royalties	3,010	4,673	1,663	8,890	12,069	3,179
Contingent legal fees	3,470					