

OVERSTOCK.COM, INC  
Form 11-K  
June 27, 2008

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 11-K**

**x** ANNUAL REPORT PURSUANT TO SECTION 15(d) OF THE SECURITIES  
EXCHANGE ACT OF 1934

For the fiscal year ended: December 31, 2007

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

For the transition period from to

Commission file Number 0001130713

OVERSTOCK.COM 401(k) PLAN

**OVERSTOCK.COM, INC.**

6350 South 3000 East  
Salt Lake City, Utah 84121

OVERSTOCK.COM

401(k) PLAN

Financial Statements

And

Supplemental Schedule

December 31, 2007 and 2006

(With Report of Independent Registered Public Accounting Firm)

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OVERSTOCK.COM

401(k) PLAN

Table of Contents

<u>Report of Independent Registered Public Accounting Firm</u>	1
<u>Statements of Net Assets Available for Benefits as of December 31, 2007 and 2006</u>	2
<u>Statement of Changes in Net Assets Available for Benefits for the Year Ended December 31, 2007</u>	3
<u>Notes to Financial Statements</u>	4
<u>Supplemental Schedule*</u>	11
<u>Schedule H, line 4(i): Schedule of Assets (Held at End of Year) as of December 31, 2007</u>	11
EX-23 Consent of Independent Registered Public Accounting Firm	

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\* Other Schedules required by the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974 have been omitted because they are not applicable.

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Report of Independent Registered Public Accounting Firm

To the Audit Committee of Overstock.com, Inc.

**Overstock.com 401(k) Plan**

We have audited the accompanying statements of net assets available for benefits of Overstock.com 401(k) Plan as of December 31, 2007 and 2006, and the related statement of changes in net assets available for benefits for the year ended December 31, 2007. These financial statements are the responsibility of the Plan's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. The plan is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Plan's internal control over financial reporting. Accordingly, we express no such opinion. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the net assets available for benefits of Overstock.com 401(k) Plan as of December 31, 2007 and 2006, and the changes in net assets available for benefits for the year ended December 31, 2007, in conformity with U.S. generally accepted accounting principles.

Our audits were conducted for the purpose of forming an opinion on the basic financial statements taken as a whole. The supplemental schedule of assets (held at end of year) as of December 31, 2007, is presented for purposes of additional analysis and is not a required part of the basic financial statements, but is supplementary information required by the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974. This supplemental schedule is the responsibility of the Plan's management, has been subjected to the auditing procedures applied in the audits of the basic financial statements and, in our opinion, is fairly stated in all material respects in relation to the basic financial statements taken as a whole.

/s/ Mayer Hoffman McCann P.C.  
Salt Lake City, Utah  
June 27, 2008

OVERSTOCK.COM

401(k) PLAN

Statements of Net Assets Available for Benefits

as of December 31, 2007 and 2006

	2007		2006
<b>Assets</b>			
Investments at fair value:			
Mutual funds	\$ 2,704,264	\$	2,392,896
Money market funds	892,738		595,473
Common stock of plan sponsor	1,180,038		608,665
<b>Total investments</b>	<b>4,777,040</b>		<b>3,597,034</b>
Contributions receivable:			
Employer discretionary matching contribution			13,750
Participant contributions			30,730
Other receivable			1,121
Profit sharing	455,616		409,421
<b>Total receivables</b>	<b>455,616</b>		<b>455,022</b>
<b>Total assets</b>	<b>5,232,656</b>		<b>4,052,056</b>
<b>Liabilities</b>			
Corrective distributions payable - Excess employee deferrals	62,843		36,947
<b>Net Assets Available for Benefits</b>	<b>\$ 5,169,813</b>	<b>\$</b>	<b>4,015,109</b>

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

## OVERSTOCK.COM

## 401(k) PLAN

## Statement of Changes in Net Assets Available for Benefits

for the Year Ended December 31, 2007

	<b>2007</b>
Additions to net assets attributed to:	
Investment income:	
Net appreciation in fair value of investments	\$ 108,704
Interest and dividends	36,712
Total investment income	145,416
Contributions:	
Participant	1,073,143
Employer discretionary matching contributions	444,596
Profit sharing	455,616
Rollovers	76,790
Total contributions	2,050,145
Total additions	2,195,561
Deductions from net assets attributed to:	
Benefits paid to participants	977,419
Administrative expenses	955
Corrective distributions	62,483
Total deductions	1,040,857
Net increase in net assets available for benefits	1,154,704
Net assets available for benefits:	
Beginning of year	4,015,109
End of year	\$ 5,169,813

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

OVERSTOCK.COM

401(k) PLAN

Notes to Financial Statements

**Note 1 Plan Description**

The following is a general description of the Overstock.com 401(k) Plan (the Plan ). Participants should refer to the Plan agreement for a more complete description of the Plan s provisions.

***General***

The Plan is a defined contribution plan which was originally adopted by Overstock.com, Inc. (the Company or Plan Sponsor ) in 1998 and has been amended from time to time since that date. Participation in the Plan is open to all eligible employees of the Company (individually, Participant and collectively, Participants ). The Plan is subject to the provisions of the Employee Retirement Income Security Act ( ERISA ) of 1974, as amended.

***Trustee***

The Plan has engaged Fidelity Management Trust Company (the Trustee ) as Trustee to the Plan and all Plan assets are held in trust with the Trustee. The Plan has also engaged Fidelity Investments Institutional Operations Corporation, Inc. (the Recordkeeper ) which provides recordkeeping and administrative services to the Plan.

***Eligibility***

Employees are eligible to participate in the Plan upon meeting the following criteria: (1) six months of service; and (2) 21 years of age. Employees of acquired companies, who meet the eligibility requirements of the Plan, may participate immediately upon acquisition. There were 893 and 825 participants in the Plan as of December 31, 2007 and 2006, respectively.

***Contributions***

Participants may contribute up to 50 percent of their annual compensation on a before-tax basis, provided the amounts do not exceed the annual limit imposed by the Internal Revenue Service ( IRS ). Such contributions are withheld by the Company from each Participant s compensation and

deposited with the Trustee to be applied to the appropriate fund in accordance with the Participant's directives. The Company may contribute a discretionary matching percentage of these contributions subject to certain limitations. For the years ended December 31, 2007 and 2006, the Company matched 50 percent of participant contributions up to 6 percent of their annual compensation. The matching contributions were in Company stock.

The Company also makes, at its sole discretion, an annual profit sharing contribution. The Company authorized profit sharing contributions of \$455,616 and \$409,421, for the years ended December 31, 2007 and 2006, respectively. The Company deposits discretionary profit sharing contributions with the Trustee in the year following the year such contributions are authorized. The discretionary contributions were in Company stock.

Participant contributions and company matching contributions made on behalf of highly compensated employees may be limited pursuant to non-discrimination rules set forth in the Plan document and the Internal Revenue Code of 1986, as amended (the Code).

***Participant Accounts***

Separate accounts are maintained for each Participant and each Participant's account is credited with the Participant's contribution, and an allocation of the Company's matching contribution and discretionary profit sharing contribution. Plan earnings are allocated to each Participant's account in proportion to the average daily balance in each fund option. The Company's discretionary matching contribution has been invested in common stock of the Plan Sponsor. The investment in common stock of the Plan Sponsor is considered non-participant-directed.



As of December 31, 2007, each Participant may elect to have his or her contributions invested in any one or any combination of twenty-seven investment funds and in the common stock of the Plan Sponsor. These funds include:

***Fidelity Contrafund*** The fund seeks to provide capital appreciation by investing in common stocks. The fund may invest in securities of domestic and foreign issuers whose value Fidelity Management & Research Company (FMR) believes is not fully recognized by the public. The fund may invest in growth or value stocks or both.

***Fidelity Equity Income*** The fund invests at least 80% of assets in equity securities. Normally invests in income-producing equity securities which tend to lead to investments in large cap value stocks. The Fund potentially invests in other types of equity securities and debt securities, including lower-quality debt securities. Invests in domestic and foreign issuers.

***Fidelity Intermediate Bond*** The fund invests at least 80% of assets in investment-grade debt securities of all types and repurchase agreements of those securities. In addition, the fund normally maintains a dollar-weighted average maturity between three and ten years.

***Fidelity Value*** The fund invests in common stocks of companies that possess valuable fixed assets or common stocks that FMR believes are undervalued in the marketplace in relation to factors such as the issuing company's assets, earnings, or growth potential.

***Fidelity Capital Appreciation*** The fund invests in common stocks of domestic and foreign issuers. The fund may invest in growth stocks or value stocks or both.

***Fidelity Blue Chip Growth*** The fund primarily invests in common stocks of well-known and established companies. Normally the fund invests at least 80% of its assets in blue chip companies (those with market capitalizations of at least \$200 million if included in the S&P 500 Index or the Dow Jones Industrial Average, or \$1 billion if not included in either index). The fund may also invest in common stocks of companies that FMR believes have above-average growth potential. The fund may invest in securities of domestic and foreign issuers.

***Fidelity Low-Priced Stock*** The fund normally invests at least 80% of assets in low-priced stocks (those priced at or below \$35 per share), which can lead to investments in small and medium-sized companies. The fund potentially invests in stocks not considered low-priced. The fund may invest in either growth or value stocks or both, and in domestic and foreign issuers.

***Fidelity Diversified International*** The fund seeks capital growth by investing primarily in non-U.S. securities. Normally invests in common stocks. The fund allocates investments across countries and regions considering size of the market in each country and region relative to size of the international market as a whole.

***Fidelity Dividend Growth*** The fund invests at least 80% of assets in equity securities. Normally invests in common stocks of companies that FMR believes have the potential to pay dividends in the future. The Fund invests in domestic and foreign issuers.

***Fidelity Mid-Cap Stock*** The fund seeks long-term capital growth. Normally invests at least 80% of assets in common stocks of companies with medium market capitalization (those with market capitalization similar to companies in the Russell MidCap Index or the S&P MidCap 400 Index). Potentially investing in companies with smaller or larger market capitalization. Invests in domestic and foreign issuers. Invests in growth stocks or value stocks or both.

**Fidelity Small-Cap Stock** The fund invests at least 80% of its assets in common stocks of companies with small market capitalizations (those with market capitalizations similar to companies in the Russell 2000 Index or the S&P SmallCap 600 Index). The fund may invest in securities of domestic and foreign issuers.

**Fidelity Freedom Income** The fund invests in a combination of Fidelity equity, fixed-income, and money market funds (underlying Fidelity funds) and allocates its assets among these funds according to a stable asset allocation strategy designed for investors already in retirement.

**Fidelity Freedom 2000** Invests in a combination of Fidelity equity, fixed-income, and money market funds (underlying Fidelity funds) and allocates its assets among these funds according to an asset allocation strategy. Having met its target date, Freedom 2000 continues becoming more conservative for 5 to 10 years, until the asset mix is approximately the same as the Fidelity Freedom Income Fund. Ultimately, the funds will merge. Targeted to investors who retired around the year 2000.

**Fidelity Freedom 2010** Invests in a combination of Fidelity equity, fixed-income, and money market funds (underlying Fidelity funds) and allocates its assets among these funds according to an asset allocation strategy. Upon meeting its target date, Freedom 2010 will continue to become more conservative for 5 to 10 years, until the asset mix is approximately the same as the Fidelity Freedom Income Fund. Ultimately, the funds will merge. Targeted to investors expected to retire around the year 2010.

**Fidelity Freedom 2020** Invests in a combination of Fidelity equity, fixed-income, and money market funds (underlying Fidelity funds) and allocates its assets among these funds according to an asset allocation strategy. Upon meeting its target date, Freedom 2020 will continue to become more conservative for 5 to 10 years, until the asset mix is approximately the same as the Fidelity Freedom Income Fund. Ultimately, the funds will merge. Targeted to investors expected to retire around the year 2020.

**Fidelity Freedom 2030** Invests in a combination of Fidelity equity, fixed-income, and money market funds (underlying Fidelity funds) and allocates its assets among these funds according to an asset allocation strategy. Upon meeting its target date, Freedom 2030 will continue to become more conservative for 5 to 10 years, until the asset mix is approximately the same as the Fidelity Freedom Income Fund. Ultimately, the funds will merge. Targeted to investors expected to retire around the year 2030.

**Spartan Total Market Index** The fund normally invests at least 80% of its assets in common stocks included in the Wilshire 5000 Total Market Index, which represents the performance of a broad range of U.S. stocks. FMR may lend the fund's securities to earn income.

***Spartan Extended Market Index*** The fund invests at least 80% of its assets in common stocks included in the Wilshire 4500 Completion Index, which represents the performance of stocks of small- to mid-capitalization U.S. companies.

***Fidelity Retirement Money Market*** Invests in U.S. dollar-denominated money market securities of domestic and foreign issuers and repurchase agreements. FMR may also enter into reverse repurchase agreements for the fund. More than 25% of the fund's total assets will be invested in the financial services industries. FMR complies with industry standard requirements for money market funds regarding quality, maturity, and diversification of the fund's investments.

***Spartan US Equity Index*** The fund invests at least 80% of its assets in common stocks included in the S&P 500 Index, which broadly represents the performance of common stocks publicly traded in the United States.

***Fidelity Freedom 2040*** Invests in a combination of Fidelity equity, fixed-income, and money market funds (underlying Fidelity funds) and allocates its assets among these funds according to an asset allocation strategy. Upon meeting its target date, Freedom 2040 will continue to become more conservative for 10 to 15 years, until the asset mix is approximately the same as the Fidelity Freedom Income Fund. Ultimately, the funds will merge. Targeted to investors expected to retire around the year 2040.

***Fidelity Freedom 2005*** Invests in a combination of Fidelity equity, fixed-income, and money market funds (underlying Fidelity funds) and allocates its assets among these funds according to an asset allocation strategy. Upon meeting its target date, Freedom 2005 will continue to become more conservative for 10 to 15 years, until the asset mix is approximately the same as the Fidelity Freedom Income Fund. Ultimately, the funds will merge. Targeted to investors who retired around the year 2005.

***Fidelity Freedom 2015*** Invests in a combination of Fidelity equity, fixed-income, and money market funds (underlying Fidelity funds) and allocates its assets among these funds according to an asset allocation strategy. Upon meeting its target date, Freedom 2015 will continue to become more conservative for 10 to 15 years, until the asset mix is approximately the same as the Fidelity Freedom Income Fund. Ultimately, the funds will merge. Targeted to investors expected to retire around the year 2015.

***Fidelity Freedom 2025*** Invests in a combination of Fidelity equity, fixed-income, and money market funds (underlying Fidelity funds) and allocates its assets among these funds according to an asset allocation strategy. Upon meeting its target date, Freedom 2025 will continue to become more conservative for 10 to 15 years, until the asset mix is approximately the same as the Fidelity Freedom Income Fund. Ultimately, the funds will merge. Targeted to investors expected to retire around the year 2025.

***Fidelity Freedom 2035*** Invests in a combination of Fidelity equity, fixed-income, and money market funds (underlying Fidelity funds) and allocates its assets among these funds according to an asset allocation strategy. Upon meeting its

target date, Freedom 2035 will continue to become more conservative for 10 to 15 years, until the asset mix is approximately the same as the Fidelity Freedom Income Fund. Ultimately, the funds will merge. Targeted to investors expected to retire around the year 2035.

*Fidelity Freedom 2045* Invests in a combination of Fidelity equity, fixed-income, and money market funds (underlying Fidelity funds) and allocates its assets among these funds according to an asset allocation strategy. Upon meeting its target date, Freedom 2045 will continue to become more conservative for 10 to 15 years, until the asset mix is approximately the same as the Fidelity Freedom Income Fund. Ultimately, the funds will merge. Targeted to investors expected to retire around the year 2045.

*Fidelity Freedom 2050* Invests in a combination of Fidelity equity, fixed-income, and money market funds (underlying Fidelity funds) and allocates its assets among these funds according to an asset allocation strategy. Upon meeting its target date, Freedom 2050 will continue to become more conservative for 10 to 15 years, until the asset mix is approximately the same as the Fidelity Freedom Income Fund. Ultimately, the funds will merge. Targeted to investors expected to retire around the year 2050.

*Overstock.com Common Stock* which invests in the common stock of Overstock.com, Inc.

*Vesting*

Participants in the Plan are 100% vested at all times with respect to their own contributions to the Plan and the earnings thereon.

With respect to Company discretionary matching and profit sharing contributions and earnings on those contributions, vesting is based on each Participant's length of employment with the Company, with 20% vesting per year of service increasing to 100% vested at the end of the fifth year of service. For the years ended December 31, 2007 and 2006, forfeited non-vested accounts totaled \$247,586 and \$100,708, respectively. The Plan Sponsor will allocate forfeited accounts to offset future employer contributions and administrative expenses. No forfeited non-vested accounts were allocated for the years ended December 31, 2007 and 2006.

#### ***Administration***

The Plan is sponsored by the Company. Operating and administrative expenses incurred in the administration of the Plan are the responsibility of the Plan, unless assumed by the Company. During 2007, the Company assumed a majority of the Plan administrative and operating expenses; however, the Company has no obligation to assume any Plan expenses in the future.

#### ***Distributions***

Distributions from the Plan are available upon any of the following: (1) termination of employment with the Company; (2) retirement and in-service distributions upon or following age 59 1/2; and (3) disability or death. The Participant (or the designated beneficiary) will receive a lump-sum distribution equal to the vested value of the account or receive the vested value of the account in periodic installments, or transfer the vested value of the account to an Individual Retirement Account or other qualified retirement plan. Distributions from the Plan will normally be taxed as ordinary income for income tax purposes, unless the Participant (or the designated beneficiary) elects to rollover his or her distributions into an Individual Retirement Account or another qualified retirement plan.

#### ***Loans to Participants***

The Plan does not currently allow participant loans.

#### ***Amendment and Termination of the Plan***

The Company anticipates that the Plan will continue without interruption; however, the Company reserves the right to amend or terminate the Plan. No amendment or termination may deprive any person of rights accrued prior to the enactment of such amendment or termination. No amendment shall permit any part of the assets of the Plan to revert to the Company or be used or diverted for purposes other than for the exclusive benefit of the Participants. If the Plan should be terminated or partially terminated, the amount in each Participant's account as of the date of such termination (after proper adjustment for all expenses, earnings and allocations) becomes fully vested and non-forfeitable. Such amounts are distributable by the Trustee to the Participants.

#### **Note 2 Significant Accounting Policies**

***Method of Presentation***

The accompanying financial statements have been prepared on the accrual basis of accounting in accordance with generally accepted accounting principles in the United States of America ( GAAP ). The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at December 31, 2007 and 2006, and the reported amounts of additions to and deductions from net assets for the year ended December 31, 2007. Actual results could differ from those estimates.

***Risks and Uncertainties***

The Plan invests in various investment securities. Investment securities are exposed to various risks such as interest rate, market, and credit risk. Due to the level of risk associated with certain investment securities, it is at least reasonably possible that changes in the values of investment securities will occur in the near term and that such changes could materially affect participant accounts balances and the amounts reported in the statements of net assets available for benefits and changes in net assets available for benefits.

***Investment Valuation***

The Plan's investments are stated at fair market value and measured daily based on quoted market prices. Investments in the various investment funds are reported at fair value as measured by Fidelity Management Trust Company at December 31, 2007 and 2006, based on the net asset value of shares held by the Plan at year-end. Investments in shares of common stock of Overstock.com, which are traded on the NASDAQ, are valued using the last reported sales prior to close of the Plan year.

Purchases and sales of securities are recorded on a trade-date basis. Dividends are recorded on the ex-dividend date.

***Net Appreciation (Depreciation) in Fair Value***

The Plan presents in the Statement of Changes in Net Assets Available for Benefits the net appreciation (depreciation) in the fair value of its investments, which consists of realized gains and losses and unrealized appreciation (depreciation) on investments.

***Contributions***

Participant contributions are recorded in the period during which the Company makes payroll deductions from participants' compensation. Company matching contributions are recorded in the same period. Company profit sharing contributions are accrued in the period for which they are authorized and are deposited with the Trustee in the following period.

*Benefit Payments*

Benefits are recorded when paid.



**Note 3 Investments**

Investments are valued at fair value as determined by an active market and consist of the following at December 31, 2007 and 2006:

	<b>2007</b>
Fidelity Contrafund	\$ 137,361
Fidelity Equity Income	111,470
Fidelity Intermediate Bond	139,893
Fidelity Value	332,915*
Fidelity Capital Appreciation	151,684
Fidelity Blue Chip Growth	256,085
Fidelity Low-Priced Stock	184,533
Fidelity Diversified International	317,269*
Fidelity Dividend Growth	107,410
Fidelity Mid-Cap Stock	281,594*
Fidelity Small-Cap Stock	37,030
Fidelity Freedom Income	5,543
Fidelity Freedom 2000	14,301
Fidelity Freedom 2010	23,258
Fidelity Freedom 2020	63,075
Fidelity Freedom 2030	128,891
Spartan Total Market Index	107,798
Spartan Extended Market Index	45,755
Spartan US Equity Index	46,260
Fidelity Retirement Money Market	892,738*
Fidelity Freedom 2040	52,554
Fidelity Freedom 2005	490
Fidelity Freedom 2015	12,016
Fidelity Freedom 2025	4,097
Fidelity Freedom 2035	123,954
Fidelity Freedom 2045	4,678
Fidelity Freedom 2050	14,350
Total money market and mutual funds	3,597,002
Company Stock:	
Participant-directed	161,637
Non-participant-directed	1,018,401
Total company stock	1,180,038*
	\$ 4,777,040

\* Represents 5% or more of investments in the Plan's net assets at the indicated date.

	<b>2006</b>
Fidelity Contrafund	\$ 82,062
Fidelity Equity Income	130,905
Fidelity Intermediate Bond	165,081
Fidelity Value	320,383*
Fidelity Capital Appreciation	140,553
Fidelity Blue Chip Growth	225,921*
Fidelity Low-Priced Stock	211,657*

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Fidelity Diversified International	249,744*
Fidelity Dividend Growth	109,607
Fidelity Mid-Cap Stock	248,390*
Fidelity Small-Cap Stock	22,843

Fidelity Freedom Income	5,190
Fidelity Freedom 2000	10,890
Fidelity Freedom 2010	18,400
Fidelity Freedom 2020	64,776
Fidelity Freedom 2030	109,976
Spartan Total Market Index	98,971
Spartan Extended Market Index	30,745
Fidelity Retirement Money Market	595,473*
Spartan US Equity Index	47,237
Fidelity Freedom 2040	33,934
Fidelity Freedom 2005	285
Fidelity Freedom 2015	7,164
Fidelity Freedom 2025	8,369
Fidelity Freedom 2035	49,813
Total money market and mutual funds	2,988,369
Company Stock:	
Participant-directed	45,759
Non-participant-directed	562,906
Total company stock	608,665*
	\$ 3,597,034

\* Represents 5% or more of investments in the Plan's net assets at the indicated date.

During 2007, the Plan's investments (including gains and losses on investments bought, sold and held during the year) appreciated in value by \$108,704 as follows:

	2007
Company stock	\$ (81,844)
Mutual funds	190,548
	\$ 108,704

#### **Note 4 Non-participant-directed Investments**

Information about the net assets and significant components of the changes in net assets relating to non-participant-directed investments for the year ended December 31, 2007 is presented as follows:

	2007
Changes in non-participant-directed net assets:	
Investment income (loss)	\$ (173,889)
Benefits paid	(270,828)
Company discretionary contributions	900,212
Increase in net assets	455,495

Non-participant-directed net assets invested in Company stock:

Beginning of year		562,906
End of year	\$	1,018,401

**Note 5 Excess Employee Deferrals**

The Plan failed to meet non-discrimination tests in accordance with the IRS regulations during the 2007 and 2006 Plan years and it was determined certain participants would be refunded a portion of their contributions. The amount accrued for at December 31, 2007 and refunded in 2008 was \$62,843. The amount accrued for at December 31, 2006 and refunded in 2007 was \$36,947.

**Note 6 Tax Status of the Plan**

The Plan is a standardized prototype plan developed by the Trustee of the Plan. As such, the Plan can rely on the opinion letter issued by the IRS to the Trustee. The most recent letter dated October 9, 2003, stated that the Prototype Plan, as then designed, was in compliance with the applicable requirements of the Code. The Company believes that the Plan is currently designed and being operated in compliance with the applicable requirements of the Code.

**Note 7 Parties in Interest**

Certain investments of the Plan are shares of funds managed by the Trustee. In addition, the Plan holds an investment in Overstock.com, Inc. common stock. These transactions are considered exempt party-in-interest transactions. The 2007 and 2006 employer discretionary contributions were invested in Overstock.com, Inc. common stock.

**Note 8 Reconciliation of the Financial Statements and Schedule H of Form 5500**

The following is a reconciliation of net assets available for benefits as reported in the financial statements to the Form 5500:

	December 31, 2007	December 31, 2006
Net assets available for benefits as reported in the financial statements	\$ 5,169,813	\$ 4,015,109
Plus: corrective distributions payable not reported on the Form 5500	62,843	36,947
Less: contribution receivables not reported on the Form 5500		(453,901)
Net assets available for benefits as reported in the Form 5500	\$ 5,232,656	\$ 3,598,155

The following is a reconciliation of the statement of changes of net assets available for benefits as reported in the financial statements to the Form 5500:

	December 31, 2007
Contributions as reported in the financial statements	\$ 2,050,145
Plus: 12/31/06 contribution receivables	453,901
Contributions as reported in the Form 5500	\$ 2,504,046
Distributions as reported in the financial statements	\$ 1,040,857
Plus: 12/31/06 corrective distributions	36,947
Less: 12/31/07 corrective distributions	(62,843)
Distributions as reported in the Form 5500	\$ 1,014,961



## SUPPLEMENTAL SCHEDULE

OVERSTOCK.COM

401(k) PLAN

Employer Identification Number 87-0634302

Plan Number 001

Schedule H, line 4(i); Schedule of Assets (Held at End of Year)

As of December 31, 2007

(a)	(b) Identity of issue, borrower, lessor, or similar party	(c) Description of investment, including maturity date, interest rate, collateral, par or maturity value	(d) Cost	(e) Current Value
*	Fidelity	Fidelity Contrafund	\$	*** \$ 137,361
*	Fidelity	Fidelity Equity Income		*** 111,470
*	Fidelity	Fidelity Intermediate Bond		*** 139,893
*	Fidelity	Fidelity Value		*** 332,915
*	Fidelity	Fidelity Capital Appreciation		*** 151,684
*	Fidelity	Fidelity Blue Chip Growth		*** 256,085
*	Fidelity	Fidelity Low-Priced Stock		*** 184,533
*	Fidelity	Fidelity Diversified International		*** 317,269
*	Fidelity	Fidelity Dividend Growth		*** 107,410
*	Fidelity	Fidelity Mid-Cap Stock		*** 281,594
*	Fidelity	Fidelity Small-Cap Stock		*** 37,030
*	Fidelity	Fidelity Freedom Income		*** 5,543
*	Fidelity	Fidelity Freedom 2000		*** 14,301
*	Fidelity	Fidelity Freedom 2010		*** 23,258

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*	Fidelity	Fidelity Freedom 2020	***	63,075
*	Fidelity	Fidelity Freedom 2030	***	128,891
*	Fidelity	Spartan Total Market Index	***	107,798
*	Fidelity	Spartan Extended Market Index	***	45,755
*	Fidelity	Spartan US Equity Index	***	46,260
*	Fidelity	Fidelity Retirement Money Market	***	892,738
*	Fidelity	Fidelity Freedom 2040	***	52,554
*	Fidelity	Fidelity Freedom 2005	***	490
*	Fidelity	Fidelity Freedom 2015	***	12,016
*	Fidelity	Fidelity Freedom 2025	***	4,097
*	Fidelity	Fidelity Freedom 2035	***	123,954
*	Fidelity	Fidelity Freedom 2045	***	4,678
*	Fidelity	Fidelity Freedom 2050	***	14,350
**	Overstock.com, Inc.	Common stock of plan sponsor	1,705,345	1,180,038
			\$	4,777,040

\* Indicates a party-in-interest to the Plan for which statutory exemptions exist.

\*\* Investment qualifies as a party-in-interest to the Plan.

\*\*\* Investments are participant-directed, therefore disclosure of cost is not required.



SIGNATURE

*The Plan.* Pursuant to the requirements of the Securities and Exchange Act of 1934 the Plan Administrator has duly caused this annual report to be signed on its behalf by the undersigned hereunto duly authorized.

OVERSTOCK.COM 401(k) PLAN

Date: June 27, 2008

By:

/s/David K. Chidester  
Title: Senior Vice President, Finance  
(principal financial officer)