

ACTUATE CORP  
Form 10-Q  
August 07, 2009  
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**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 10-Q**

(Mark One)

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

For the quarterly period ended June 30, 2009

OR

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

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File No. 0-24607

**Actuate Corporation**

(Exact name of Registrant as specified in its charter)

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**Delaware**  
(State of incorporation)

**94-3193197**  
(I.R.S. Employer

Identification No.)

**2207 Bridgepointe Parkway, Suite 500**

**San Mateo, California 94404**

**(650) 645-3000**

(including area code, of Registrant's principal executive offices)

**Former name, former address and former fiscal year, if changed since last report: None**

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  No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter 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 definition of "large accelerated filer", "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer  Accelerated filer

Non-accelerated filer  (Do not check if 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

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

| <b>Title of Class</b>                    | <b>Outstanding as of June 30, 2009</b> |
|--|--|
| Common Stock, par value \$.001 per share | 45,397,149                             |

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**Actuate Corporation**

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|   | <b>June 30,<br/>2009</b> | <b>December 31,<br/>2008</b> |
|---|--------------------------|------------------------------|
| <b>ASSETS</b>   |                          |                              |
| Current assets:   |                          |                              |
| Cash and cash equivalents   | \$ 38,488                | \$ 24,772                    |
| Short-term investments  | 36,360                   | 17,278                       |
| Accounts receivable, net of allowance of \$582 and \$606 at June 30, 2009 and December 31, 2008, respectively | 18,329                   | 28,017                       |
| Other current assets  | 7,437                    | 6,620                        |
| <b>Total current assets</b>   | <b>100,614</b>           | <b>76,687</b>                |
| Property and equipment, net   | 4,285                    | 4,729                        |
| Goodwill  | 36,114                   | 36,114                       |
| Other purchased intangibles, net  | 1,350                    | 1,800                        |
| Non-current deferred tax assets   | 13,175                   | 12,602                       |
| Non-current investments   |                          | 16,391                       |
| Other assets  | 1,808                    | 2,189                        |
|   | <b>\$ 157,346</b>        | <b>\$ 150,512</b>            |
| <b>LIABILITIES AND STOCKHOLDERS EQUITY</b>  |                          |                              |
| Current liabilities:  |                          |                              |
| Accounts payable  | \$ 1,383                 | \$ 2,067                     |
| Restructuring liabilities   | 2,781                    | 3,206                        |
| Accrued compensation  | 4,455                    | 4,514                        |
| Other accrued liabilities   | 4,123                    | 5,299                        |
| Income tax payable  | 369                      |                              |
| Deferred revenue  | 38,297                   | 40,900                       |
| <b>Total current liabilities</b>  | <b>51,408</b>            | <b>55,986</b>                |
| Long-term liabilities:  |                          |                              |
| Note payable  | 30,000                   | 30,000                       |
| Other liabilities   | 899                      | 1,054                        |
| Long-term deferred revenue  | 1,828                    | 2,472                        |
| Long term income tax payable  | 1,686                    | 1,660                        |
| Restructuring liabilities, less current portion   | 1,778                    | 3,092                        |
| <b>Total long-term liabilities</b>  | <b>36,191</b>            | <b>38,278</b>                |

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|   |            |            |
|---|------------|------------|
| Non-controlling interest in subsidiary  | 596        | 584        |
| Stockholders' equity:   |            |            |
| Preferred stock, \$0.001 par value, issuable in series: 5,000,000 shares authorized; none issued and outstanding  |            |            |
| Common stock, \$0.001 par value, 100,000,000 shares authorized; issued 76,741,561 and 75,514,061 shares, respectively; outstanding 45,397,149 and 44,169,649 shares, respectively | 45         | 44         |
| Additional paid-in capital  | 168,404    | 160,619    |
| Treasury stock, at cost 31,344,412 shares   | (117,299)  | (117,256)  |
| Accumulated other comprehensive loss  | (746)      | (887)      |
| Retained earnings   | 18,747     | 13,144     |
| Total stockholders' equity  | 69,151     | 55,664     |
|   | \$ 157,346 | \$ 150,512 |

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

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**ACTUATE CORPORATION**  
**CONDENSED CONSOLIDATED STATEMENTS OF INCOME**

(in thousands, except per share data)

(unaudited)

|  | Three Months Ended<br>June 30, |                 | Six Months Ended<br>June 30, |                 |
|--|--------------------------------|-----------------|------------------------------|-----------------|
|  | 2009                           | 2008            | 2009                         | 2008            |
| <b>Revenues:</b>                             |                                |                 |                              |                 |
| License fees                                 | \$ 8,534                       | \$ 12,289       | \$ 17,287                    | \$ 19,899       |
| Maintenance                                  | 19,178                         | 18,648          | 37,549                       | 36,386          |
| Professional Services                        | 1,829                          | 3,663           | 3,961                        | 7,836           |
| <b>Total revenues</b>                        | <b>29,541</b>                  | <b>34,600</b>   | <b>58,797</b>                | <b>64,121</b>   |
| <b>Costs and expenses:</b>                   |                                |                 |                              |                 |
| Cost of license fees                         | 236                            | 390             | 436                          | 716             |
| Cost of services                             | 4,793                          | 6,287           | 9,533                        | 12,562          |
| Sales and marketing                          | 10,492                         | 13,676          | 21,202                       | 26,814          |
| Research and development                     | 5,208                          | 5,770           | 10,258                       | 11,401          |
| General and administrative                   | 4,557                          | 4,683           | 9,632                        | 9,404           |
| Amortization of other purchased intangibles  | 170                            | 237             | 340                          | 474             |
| Restructuring charges                        | 70                             | 261             | 111                          | 403             |
| <b>Total costs and expenses</b>              | <b>25,526</b>                  | <b>31,304</b>   | <b>51,512</b>                | <b>61,774</b>   |
| <b>Income from operations</b>                | <b>4,015</b>                   | <b>3,296</b>    | <b>7,285</b>                 | <b>2,347</b>    |
| Interest and other income, net               | 112                            | 453             | 584                          | 78              |
| Interest expense (income)                    | (355)                          | 3               | (710)                        |                 |
| <b>Income before income taxes</b>            | <b>3,772</b>                   | <b>3,752</b>    | <b>7,159</b>                 | <b>2,425</b>    |
| Provision (benefit) for income taxes         | 972                            | 857             | 1,556                        | (3,377)         |
| <b>Net income</b>                            | <b>\$ 2,800</b>                | <b>\$ 2,895</b> | <b>\$ 5,603</b>              | <b>\$ 5,802</b> |
| <b>Basic net income per share</b>            | <b>\$ 0.06</b>                 | <b>\$ 0.05</b>  | <b>\$ 0.13</b>               | <b>\$ 0.10</b>  |
| Shares used in basic per share calculation   | 45,030                         | 60,227          | 44,745                       | 60,565          |
| <b>Diluted net income per share</b>          | <b>\$ 0.06</b>                 | <b>\$ 0.04</b>  | <b>\$ 0.11</b>               | <b>\$ 0.09</b>  |
| Shares used in diluted per share calculation | 49,235                         | 65,485          | 48,779                       | 66,370          |

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

**Table of Contents****ACTUATE CORPORATION****CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**

(in thousands, unaudited)

|  | <b>Six Months Ended<br/>June 30,</b> |               |
|--|--------------------------------------|---------------|
|  | <b>2009</b>                          | <b>2008</b>   |
| <b>Operating activities</b>  |                                      |               |
| Net income   | \$ 5,603                             | \$ 5,802      |
| Adjustments to reconcile net income to net cash provided by operating activities:          |                                      |               |
| Stock based compensation expense related to stock options and employee stock purchase plan | 3,763                                | 5,011         |
| Amortization of other purchased intangibles  | 450                                  | 764           |
| Amortization of debt issuance cost   | 140                                  |               |
| Depreciation   | 1,108                                | 1,128         |
| Net operating loss utilizations (adjustments) related to prior acquisitions                |                                      | (228)         |
| Change in valuation allowance on deferred tax assets                                       | (575)                                |               |
| Accretion/amortization on short-term debt securities                                       | 170                                  | 205           |
| Other-than-temporary impairment on Auction Rate Securities (ARS)                           | 734                                  |               |
| Gain on the fair value of put option   | (788)                                |               |
| Changes in operating assets and liabilities:   |                                      |               |
| Accounts receivable, net of allowance  | 9,688                                | 14,601        |
| Other current assets   | (242)                                | 544           |
| Accounts payable   | (681)                                | (1,191)       |
| Accrued compensation   | (59)                                 | (1,682)       |
| Other accrued liabilities  | (907)                                | (1,430)       |
| Deferred tax assets  | (8)                                  | (48)          |
| Income taxes receivable  | (577)                                | (3,124)       |
| Income taxes payable   | 395                                  |               |
| Other liabilities  | (155)                                | (53)          |
| Restructuring liabilities  | (1,739)                              | (1,272)       |
| Deferred revenue   | (3,248)                              | (2,152)       |
| <b>Net cash provided by operating activities</b>   | <b>13,072</b>                        | <b>16,875</b> |
| <b>Investing activities</b>  |                                      |               |
| Purchases of property and equipment  | (662)                                | (1,530)       |
| Release of restricted cash   | 229                                  |               |
| Proceeds from sale and maturity of investments   | 8,053                                | 46,297        |
| Purchases of short-term investments  | (10,783)                             | (35,137)      |
| Change in other current and non-current assets   | (18)                                 |               |
| <b>Net cash provided by (used in) investing activities</b>                                 | <b>(3,181)</b>                       | <b>9,630</b>  |
| <b>Financing activities</b>  |                                      |               |
| Tax benefit from exercise of stock options   | 1,220                                |               |
| Proceeds from issuance of common stock   |                                      |               |