ASURE SOFTWARE INC
Form S-3
July 25, 2012

As filed with the Securities and Exchange Commission on July 25, 2012

Registration No. 333-

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Form S-3
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

ASURE SOFTWARE, INC.
(Exact name of registrant as specified in its charter)

Delaware	74-2415696
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

110 Wild Basin Road, Suite 100
Austin, Texas 78746
(512) 437-2700
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Patrick Goepel
Chief Executive Officer
110 Wild Basin Road, Suite 100
Austin, Texas 78746
(512) 437-2700
(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copy to:
Jeffrey C. Robbins
Messerli & Kramer P.A.
100 South Fifth Street, Suite 1400
Minneapolis, Minnesota 55402
(612) 672-3600

Approximate date of commencement of proposed sale to the public: From time to time after the effective date of this registration statement.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box. ¨

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box. x

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ¨

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ¨

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box. ¨

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box. ¨

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	x

Table of Contents

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Amount to be Registered (1) (2)	Proposed Maximum Offering Price Per Share(3)	Proposed Maximum Aggregate Offering Price(3)	Amount of Registration Fee
Common Stock, $0.01 par value per share	525,000	$6.67	$3,501,750	$402

(1) Consists of an aggregate of 345,000 shares of common stock outstanding and 105,000 shares of common stock that are issuable upon conversion of registrant's outstanding 9.0% Subordinated Convertible Promissory Notes due 2014, plus an additional 75,000 shares issued in a private transaction in 2009.

(2) Pursuant to Rule 416 under the Securities Act, the shares being registered include such indeterminate number of additional shares of common stock as may be issuable as a result of stock splits, stock dividends or similar transactions.

(3) Pursuant to Rule 457(c) under the Securities Act, the offering price and registration fee are computed based on the average of the high and low prices reported for the registrant's common stock on the NASDAQ Capital Market on July 18, 2012.

The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the registration statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.

Table of Contents

The information in this prospectus is not complete and may be changed. These securities may not be sold until the registration statement filed with the Securities and Exchange Commission becomes effective. This prospectus is not an offer to sell these securities and it is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

Subject to Completion, dated July 25, 2012

PROSPECTUS

ASURE SOFTWARE, INC.

525,000 Shares of Common Stock

We previously issued 9.0% subordinated convertible notes due 2014 to the selling stockholders named in this prospectus in a private placement. This prospectus relates to the resale of up to 450,000 shares of common stock, consisting of 345,000 shares that have been issued upon early conversion of a portion of the subordinated convertible notes and 105,000 shares that are issuable upon conversion of the outstanding subordinated convertible notes. This prospectus also covers the resale of an additional 75,000 shares issued by us in a private transaction in 2009.

We are not selling any common stock under this prospectus and will not receive any proceeds from the sale of the shares offered by the selling stockholders.

Our common stock is traded on the NASDAQ Capital Market under the symbol "ASUR." On July 23, 2012, the closing price of our common stock as reported on the NASDAQ Capital Market was $6.35 per share.

Investing in our securities involves risks. See "Risk Factors" on page 5 of this prospectus and in any documents we file with the Securities and Exchange Commission that are incorporated by reference in this prospectus.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

The date of this prospectus is , 2012.

Table of Contents

TABLE OF CONTENTS

Table of Contents

ABOUT THIS PROSPECTUS

This prospectus is a part of a registration statement that we filed with the Securities and Exchange Commission utilizing a “shelf” registration process. Under this shelf registration process, certain selling stockholders may from time to time sell the shares of common stock described in this prospectus in one or more offerings.

You should rely only on the information contained or incorporated by reference in this prospectus and, if applicable, any accompanying prospectus supplement. We have not, and the selling stockholder has not, authorized anyone to provide you with additional or different information.

This document may only be used where it is legal to sell these securities. You should assume that the information in this prospectus and, if applicable, any prospectus supplement is accurate only as of the date on the front of the document and that any information we have incorporated by reference is accurate only as of the date of the document incorporated by reference, regardless of the time of delivery of this prospectus and, if applicable, any prospectus supplement or of any sale of our common stock.

We urge you to read carefully this prospectus, together with the information incorporated herein by reference as described under the heading “Incorporation of Documents By Reference,” before deciding whether to invest in any of the common stock being offered.

Unless the context otherwise requires, the terms “we,” “us,” “our,” “Asure” and “our company” refer to Asure Software, Inc., a Delaware corporation.

Table of Contents

ASURE SOFTWARE, INC.

We are a leading provider of cloud-based workforce management solutions that enable organizations to manage their office environment as well as their human resource and payroll processes effectively and efficiently. We offer two main product lines which provide workspace management solutions and workforce management solutions. Our workspace management solution automates the scheduling of a facility, including reserving rooms, requesting equipment, ordering food, sending invitations and reporting on the meeting environment. With our acquisition of PeopleCube in July 2012, we also offer solutions that enable organizations to maximize the efficient use of their real estate and energy. Our workforce management product line simplifies HR processes and improves productivity by managing and communicating human resource information, employee benefits and payroll information.

Our principal executive offices are located at 110 Wild Basin Road, Suite 100, Austin, Texas 78746, and our telephone number is (512) 437-2700.

Recent Development

In July 2012, we acquired Meeting Maker – United States, Inc., a Framingham, Massachusetts company that provides cloud-based workplace scheduling and business intelligence software and services. Leveraging image and desk sensor technologies and utilizing an interactive visualization dashboard, the company enables over 7,500 clients worldwide to more efficiently utilize their real estate and energy based on actual workspace usage.

Table of Contents

RISK FACTORS

An investment in our securities involves a high degree of risk. Before making an investment decision, you should carefully consider the risks described below as well as other information we include or incorporate by reference in this prospectus and any prospectus supplement. Additional risks and uncertainties not presently known to us or that we do not currently believe are important to an investor also may adversely affect our business, financial condition and results of operations and the value of an investment in our common stock.

Risks Related to our Business and Industry

We have a history of losses, and we may not achieve or sustain profitability in the future.

We have incurred annual net losses since 2008 and in other years before 2007. As of March 31, 2012, our accumulated deficit was approximately $265 million. We may continue to incur losses for the foreseeable future, and such losses may be substantial. We will need to generate and sustain increased revenues to achieve future profitability. Given our history of losses, we cannot assure you that we will be able to achieve or maintain profitability in the future.

If the market for cloud solutions for workplace applications does not evolve as we anticipate, our revenues may not grow and our operating results would be harmed.

Our success will depend, to a large extent, on the willingness of prospective customers to increase their use of cloud solutions for their workplace applications. However, the market for cloud solutions for workplace applications is at an early stage and it is difficult to predict important trends, if any, of the market for cloud-based workplace applications. Many companies may be reluctant or unwilling to migrate to cloud solutions. Other factors that may affect market acceptance of our cloud-based workplace applications include:

- our ability to maintain high levels of customer satisfaction;
- the level of customization of configuration we offer; and
- the price, performance and availability of competing products and services.

If the market for cloud solutions for workplace applications does not evolve in the way we anticipate or customers do not recognize the benefits of cloud solutions, and as a result we are unable to increase sales of subscriptions for our products, then our revenues may not grow or may decline and our operating results would be harmed.

If we fail to develop or acquire new products or enhance our existing products, our revenue growth will be harmed and we may not be able to achieve profitability.

Our ability to attract new customers and increase revenue from existing customers will depend in large part on our ability to enhance and improve our existing products and to introduce new products in a timely manner. The success of any enhancement or new product depends on several factors, including the timely completion, introduction and market acceptance of the enhancement or new product. Any new product we develop or acquire may not be introduced in a timely or cost-effective manner and may not achieve the broad customer acceptance necessary to generate significant revenue. If we are unable to successfully develop or acquire new products or enhance our existing products to meet customer requirements and keep pace with technological developments, our revenue will not grow as expected and we may not be able to achieve profitability.

Table of Contents

Adverse economic conditions or reduced investments in cloud-based applications and information technology spending may adversely impact our business.

Our business depends on the overall demand for cloud-based applications and information technology spending and on the economic health of our current and prospective customers. If the conditions in the U.S. and global economic environment remain uncertain or unstable, our business, operating results and financial condition may be materially adversely affected. Weak or volatile economic conditions, or a reduction in spending for cloud-based applications and information technology, would likely harm our business and cause a decline in our revenues.

Terms of our recent borrowings may affect our business operations and we would incur significant disruption if we defaulted in our loan obligations.

In connection with our recent acquisition of PeopleCube, we entered into a loan agreement with Deerpath Funding, L.P. The Deerpath loan agreement contains limitations on our ability to incur future debt and liens and conduct future mergers and acquisitions, sales of assets or loans or advances to and investments in others, make dividends or other distributions, incur capital expenditures and adjust management compensation. We are also required to maintain a certain minimum EBITDA and certain senior debt to EBITDA and fixed charge coverage ratios. We have pledged substantially all of our assets to Deerpath to secure the loan facility. If we default under the loan agreement, Deerpath could foreclose upon our assets or otherwise divert cash flows otherwise available to operate and grow our business. In any such case, our business and stock price would likely be harmed.

Our business depends substantially on retaining our current customers, and any decline in our customer renewals could harm our future operating results.

We offer our products primarily pursuant to a cloud-based or software-as-a-service model, and our customers purchase subscriptions from us that are generally one year in length. Our customers have no obligation to renew their subscriptions after their subscription period expires, and they may not renew their subscriptions at the same or higher levels or at all. As a result, our ability to grow depends in part on customers renewing their existing subscriptions and purchasing additional subscriptions. We have limited historical data with respect to rates of customer subscription renewals, upgrades and expansions, so we may not accurately predict future trends in customer renewals. Our customers' renewal rates may decline or fluctuate due to a number of factors, including their satisfaction or dissatisfaction with our solutions, the prices of our solutions, the prices of products or services offered by our competitors, reductions in our customers' spending levels due to the macroeconomic environment or other factors. If our customers do not renew their subscriptions to our products, renew on less favorable terms or do not purchase additional subscriptions, our revenues may grow more slowly than expected or decline and our results of operations may be harmed.

If we are unable to continue to attract new customers, our growth could be slower than we expect.

We believe that our future growth depends in part upon increasing our customer base. Our ability to achieve significant growth in revenues in the future will depend, in large part, upon continually attracting new customers and obtaining subscription renewals to our products from those customers. If we fail to attract new customers, our revenues may grow more slowly than expected and our business may be harmed.

Software defects or errors in our products could harm our reputation, result in significant costs to us and impair our ability to sell our products, which would harm our operating results.

Our products may contain undetected defects or errors when first introduced or as new versions are released, which could materially and adversely affect our reputation, result in significant costs to us and impair our ability to sell our products in the future. The costs incurred in correcting any defects or errors may be substantial and could adversely affect our operating results.

Table of Contents

Any defects that cause interruptions in the availability or functionality of our products could result in:

- lost or delayed customer acceptance and sales of our products;
- loss of customers;
- product liability and breach of warranty claims against us;
- diversion of development and support resources;
- harm to our reputation; and
- increased billing disputes and customer claims for fee credits.

We face competition in our markets, and if we do not compete effectively, our operating results may be harmed.

The market for cloud-based workplace management software solutions is highly competitive and rapidly changing and fragmented, with increasingly and relatively low barriers to entry. With the introduction of new technologies and market entrants, we expect competition to intensify in the future. In addition, pricing pressures and increased competition generally could result in reduced sales, reduced margin or the failure of our products and services to achieve or maintain more widespread market acceptance.

Many of our actual and potential competitors have competitive advantages, such as greater brand name recognition, larger sales and marketing budgets and resources, broader distribution networks and more established relationships with distributors and customers, greater resources to develop and introduce solutions that compete with our products and substantially greater financial, technical and other resources. As a result, our competitors may be able to respond more quickly and effectively than we can to new or changing opportunities, technologies, standards or customer requirements. If we are not able to compete effectively, our operating results will be harmed.

Assertions by third parties of infringement or other violations by us of their intellectual property rights could result in significant costs and harm our business and operating results.

Patent and other intellectual property disputes are common in the software and technology industries. Third parties may in the future assert claims of infringement, misappropriation or other violations of intellectual property rights against us. They may also assert such claims against our customers or channel partners whom we typically indemnify against claims that our solutions infringe, misappropriate or otherwise violate the intellectual property rights of third parties. As the numbers of products and competitors in our market increase and overlaps occur, claims of infringement, misappropriation and other violations of intellectual property rights may increase. Any claim of infringement, misappropriation or other violation of intellectual property rights by a third party, even those without merit, could cause us to incur substantial costs defending against the claim and could distract our management from our business.

An adverse outcome of a dispute may require us to:

- pay substantial damages, including treble damages, if we are found to have willfully infringed a third party’s patents or copyrights;
- cease making, licensing or using products that are alleged to infringe or misappropriate the intellectual property of others;

- expend additional development resources to attempt to redesign our products or otherwise develop non-infringing technology, which may not be successful;
- enter into potentially unfavorable royalty or license agreements in order to obtain the right to use necessary technologies or intellectual property rights; and
- indemnify our partners and other third parties.

Table of Contents

In addition, royalty or licensing agreements, if required or desirable, may be unavailable on terms acceptable to us, or at all, and may require significant royalty payments and other expenditures. Some licenses may also be non-exclusive, and therefore our competitors may have access to the same technology licensed to us. Any of the foregoing events could seriously harm our business, financial condition and results of operations.

Failure to protect and enforce our intellectual property rights could substantially harm our business and operating results.

The success of our business depends in part on our ability to protect and enforce our trade secrets, trademarks, copyrights and other intellectual property rights. We attempt to protect our intellectual property under copyright, trade secret and trademark laws, and through a combination of confidentiality procedures, contractual provisions and other methods, all of which offer only limited protection.

We primarily rely on our unpatented proprietary technology and trade secrets. Despite our efforts to protect our proprietary technology and trade secrets, unauthorized parties may attempt to misappropriate, reverse engineer or otherwise obtain and use them. The contractual provisions that we enter into with employees, consultants, partners, vendors and customers may not prevent unauthorized use or disclosure of our proprietary technology or intellectual property rights and may not provide an adequate remedy in the event of unauthorized use or disclosure of our proprietary technology or intellectual property rights. Moreover, policing unauthorized use of our technologies, solutions and intellectual property is difficult, expensive and time-consuming, particularly in foreign countries where the laws may not be as protective of intellectual property rights as those in the United States and where mechanisms for enforcement of intellectual property rights may be weak. We may be unable to determine the extent of any unauthorized use or infringement of our solutions, technologies or intellectual property rights.

From time to time, legal action by us may be necessary to enforce our intellectual property rights, to protect our trade secrets, to determine the validity and scope of the intellectual property rights of others or to defend against claims of infringement or invalidity. Such litigation could result in substantial costs and diversion of resources and could negatively affect our business, operating results and financial condition.

We are dependent on the continued services and performance of our senior management and other key employees, the loss of any of whom could adversely affect our business, operating results and financial condition.

Our future performance depends on the continued services and continuing contributions of our senior management, particularly Patrick Goepel, our President and Chief Executive Officer, and other key employees to execute on our business plan and strategies. Although our executive officers are currently covered by employment agreements, other members of our senior management team are generally employed on an at-will basis, which means that they could terminate their employment with us at any time. The loss of the services of our senior management, particularly Mr. Goepel, or other key employees for any reason could significantly delay or prevent the achievement of our strategic objectives and harm our business, financial condition and results of operations.

If we are unable to hire, retain and motivate qualified personnel, our business may suffer.

Our future success depends, in part, on our ability to attract and retain highly skilled personnel. The loss of the services of any of our key personnel, the inability to attract or retain qualified personnel or delays in hiring required personnel may seriously harm our business, financial condition and results of operations. Any of our employees may terminate their employment at any time. Competition for sales, marketing and technical personnel is particularly intense in the software and technology industries. We may not be able to compete for these personnel.

Table of Contents

Our success in acquiring and integrating other businesses, products or technologies could impact our financial position.

As part of our growth strategy, we have recently completed acquisitions and plan to continue to pursue acquisitions in the future. The environment for acquisitions in our industry is very competitive and acquisition purchase prices may exceed what we would prefer to pay. Moreover, achieving the anticipated benefits of future acquisitions will depend in part upon whether we can integrate acquired operations, products and technologies in a timely and cost-effective manner. The acquisition and integration process is complex, expensive and time consuming, and may cause an interruption of, or loss of momentum in, product development, sales activities and core operations. We may not find suitable acquisition candidates, and financing to complete future acquisitions may not be available on favorable terms to us, or at all. Acquisitions we complete may be unsuccessful. If we consummate a transaction, we may be unable to integrate and manage acquired products, technologies and businesses effectively or retain key personnel, customers or partners. If we are unable to effectively execute acquisitions, our business, financial condition and operating results could be adversely affected.

We use third-party software that may be difficult to replace or could cause errors or failures of our products that could lead to lost customers or harm to our reputation.

We license software from various external parties to offer with or integrated into our products. In the future, this software may not continue to be available to us on commercially reasonable terms, or at all. Any loss of the right to use any of this software could result in delays in the provisioning of our products until equivalent technology is either developed by us, or, if available, is identified, obtained and integrated, which could harm our business. In addition, any errors or defects in third-party software could result in errors or a failure of our products, which could harm our business and be costly to correct.

We recognize revenues from subscriptions over the term of the applicable agreement, and therefore any decreases or increases in bookings are not immediately reflected in our operating results.

We recognize revenues from subscriptions over the term of the relevant subscription agreement, which is typically one year. As a result, the majority of our reported revenues in each quarter are derived from the recognition of deferred revenues relating to subscriptions entered into during previous quarters. Consequently, a decline in demand for our products in any period may not significantly reduce our revenues for that period, but could negatively affect revenues in future periods. Accordingly, the effect of significant downturns in bookings may not be fully reflected in our results of operations until future periods. We may be unable to adjust our costs and expenses to compensate for such a potential shortfall in revenues. Our subscription model also makes it difficult for us to rapidly increase our reported revenues through additional bookings in any period, as we recognize revenues ratably over the subscription period.

Changes in laws or regulations related to the Internet may diminish the demand for our products and could have a negative impact on our business.

We deliver our products through the Internet. Federal, state or foreign government bodies or agencies have in the past adopted, and may in the future adopt, laws or regulations affecting data privacy and the use of the Internet. In addition, government agencies or private organizations may begin to impose taxes, fees or other charges for accessing the Internet or on commerce conducted via the Internet. These laws or charges could limit the viability of Internet-based solutions such as ours and reduce the demand for our products.

Changes in financial accounting standards or practices may cause adverse, unexpected financial reporting fluctuations and impact our operating results.

A change in accounting standards or practices could harm our operating results and may even affect our reporting of transactions completed before the change is effective. New accounting pronouncements and varying interpretations of accounting pronouncements have occurred and may occur in the future. Changes to existing rules or the questioning of current practices may harm our operating results or the way we conduct our business.

Table of Contents

Risks Related to Ownership of our Common Stock

We may need to raise additional capital to continue to fund the growth of our business.

We may need to raise additional funds to continue to fund the growth of our business. Equity or debt financing options may not be available on terms favorable to us or at all. Additional sales of our common stock or securities convertible into our common stock will dilute existing stockholders and may result in a decline in our stock price. If we engage in debt financing, we may be required to accept terms that further restrict our ability to incur additional indebtedness and force us to maintain specified liquidity or other ratios. If we are unable to raise additional capital, we may not be able to further develop or enhance our products, respond to competitive pressures or unanticipated working capital requirements, acquire complementary technologies, products or businesses or otherwise achieve our business objectives.

We may incur additional liquidated damages to the selling stockholders if we do not meet our registration obligations under the registration rights agreement.

Pursuant to our amended and restated registration rights agreement, if the registration statement of which this prospectus forms a part has not been filed or declared effective within specified time periods or we otherwise fail to comply with certain provisions set forth in the registration rights agreement, we will be required to pay the selling stockholders a specified dollar amount as liquidated damages.

For holders who did not elect early to convert their 9.0% subordinated convertible notes, we agreed to file a registration statement by June 30, 2012 and to cause it to be declared effective by September 30, 2012 (or December 31, 2012 if a certain trading volume condition is met). This prospectus is part of such registration statement. Since we failed to satisfy the June 30 filing deadline, the interest rate on the subordinated convertible notes increased to 12% per year beginning on July 1, 2012, which higher interest rate will continue through the date after the initial filing of the registration statement of which this prospectus is a part. On account of our late filing, we have also paid the non-electing holders an amount of cash equal to 0.5% of the amount paid for such holders' subordinated convertible notes, or $1,750 of total liquidated damages. The interest rate on the subordinated convertible notes would similarly increase if we fail to obtain timely effectiveness of the registration statement of which this prospectus is a part, and we would owe similar liquidated damages on the date of the effectiveness failure and on every 30th day thereafter until the effectiveness failure is cured.

For holders who elected early to convert their subordinated convertible notes, we agreed to cause the registration statement of which this prospectus forms a part to be declared effective by August 31, 2012. If we fail to satisfy the effectiveness deadline, we must pay to each early electing holder an amount of cash equal to 5.0% of the amount paid for such holder's subordinated convertible note on the date of the effectiveness failure and on every 30th day thereafter until the effectiveness failure is cured. The maximum amount of this penalty is capped at 30% of the principal amount of the holder's subordinated convertible note.

In addition, if selling stockholders cannot make sales pursuant to an effective registration statement, then we must pay to each holder an amount of cash equal to 0.5% of the amount paid for such holder's subordinated convertible note on the initial date of the maintenance failure and on every 30th day thereafter until such maintenance failure is cured.

We cannot assure that the SEC will declare effective the registration statement of which this prospectus forms a part or that it will remain effective for the time periods necessary to avoid payment of liquidated damages. Any payment of liquidated damages would increase our expenses and reduce our cash resources.

Table of Contents

Control by our existing stockholders could discourage the potential acquisition of our business or adversely affect our stock price.

Currently, our executive officers, directors and their affiliates beneficially own approximately 20.3% of our outstanding common stock. Acting together, these insiders may be able to elect our entire Board of Directors and control the outcome of all other matters requiring stockholder approval. This voting concentration may also have the effect of delaying or preventing a change in our management or control or otherwise discourage potential acquirers from attempting to gain control of us, and may affect the market price of our common stock. If potential acquirers are deterred, you may lose an opportunity to profit from a possible acquisition premium in our stock price. This significant concentration of stock ownership may also adversely affect the trading price of our common stock due to investors' perception that conflicts of interest may exist or arise.

Our quarterly operating results may vary from period to period, which could cause the trading price of our stock to decline.

Out operating results have historically varied from period to period, and we expect that they will continue to do so as a result of a number of factors, many of which are outside our control, including:

- the level of demand for our products;
- changes in customer renewal rates;
- changes in the growth rate of our markets;
- failure to meet revenue and other financial measure estimates;
- the timing and success of new product introductions by us or our competitors or any other changes in the competitive landscape of our industry;
- the introduction or adoption of new technologies that compete with our products;
- insolvency or other credit difficulties affecting the ability of our customers to purchase or pay for our products;
- general economic conditions; and
- future accounting pronouncements or changes on our accounting policies.

Anti-takeover provisions in our charter documents and under Delaware law could make an acquisition of us, which may be beneficial to our stockholders, more difficult and may prevent attempts by our stockholders to replace or remove our current management.

Provisions in our certificate of incorporation and bylaws may delay or prevent an acquisition of us or a change in our management. These provisions include the ability of our board of directors to issue preferred stock without stockholder approval and a limitation on who may call a special meeting of