

SBE INC
Form DEF 14A
July 03, 2007

SCHEDULE 14A
(RULE 14a-101)
INFORMATION REQUIRED IN PROXY STATEMENT

SCHEDULE 14A INFORMATION
Proxy Statement Pursuant to Section 14(a)
of the Securities Exchange Act of 1934

Filed by the Registrant x

Filed by a Party other than the Registrant o

Check the appropriate box:

- o Preliminary Proxy Statement
- o Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
- x Definitive Proxy Statement
- o Definitive Additional Materials
- o Soliciting Material Under Rule 14a-12

SBE, INC.

(Name of Registrant as Specified In Its Charter)

Not applicable

(Name of Person(s) Filing Proxy Statement, if Other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

- o No fee required.
- x Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

- (1) Title of each class of securities to which transaction applies: Common Stock, par value \$0.001 per share, of the Registrant (the "Common Stock").
- (2) Aggregate number of securities to which transaction applies: 28,379,000
- (3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11: Pursuant to Section 14(g)(1)(i) of the Securities Exchange Act of 1934, \$30.70 per \$1,000,000 of the proposed value.
- (4) Proposed maximum aggregate value of transaction: \$52,650,903
- (5) Total fee paid: \$1,616.35
- x Fee paid previously with preliminary materials.
- o Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the form or schedule and the date of its filing.
 - (1) Amount previously paid: N/A
 - (2) Form, Schedule or Registration Statement No.: N/A
 - (3) Filing Party: N/A
 - (4) Date Filed: N/A

SBE, Inc.

July 3, 2007

Dear Stockholder:

You are cordially invited to attend the Special Meeting of Stockholders of SBE, Inc. to be held on August 10, 2007 at our offices located at 4000 Executive Parkway, Suite 200, San Ramon, California 94583. The meeting will begin promptly at 9:00 a.m. California time.

The items of business to be considered at the special meeting are listed in the following Notice of Special Meeting and are more fully addressed in the proxy statement included with this letter. The items you will be asked to approve at the special meeting relate to our proposed acquisition of Neonode Inc., an increase in the number of shares authorized for issuance under the 2006 Equity Incentive Plan and the amendment and restatement of our Amended and Restated Certificate of Incorporation to (i) effect a stock combination (reverse stock split) of either 1-for-2 or 1-for-3, with the specific ratio to be determined by our board of directors, pursuant to which every two or three shares of outstanding common stock, as applicable, would be reclassified into one share of common stock; (ii) increase the authorized shares of common stock from 25,000,000 to 40,000,000 and (iii) change our name from SBE, Inc. to "Neonode Inc."

Our board of directors carefully considered each of the above proposals and recommends that you vote in favor of each. We are excited about the opportunities for the combined company and believe that the combined company will be able to create substantially more stockholder value than could be achieved by the companies individually.

Whether or not you plan to attend the special meeting in person, it is important that your shares be represented and voted at the meeting. Please date, sign, and return your proxy card promptly in the enclosed envelope to ensure that your shares will be represented and voted at the special meeting, even if you cannot attend. If you attend the special meeting and are the stockholder of record, you may vote your shares in person even though you have previously signed and returned your proxy.

On behalf of your board of directors, thank you for your investment in and continued support of SBE, Inc.

Sincerely,

/s/ Greg Yamamoto

Greg Yamamoto
President and Chief Executive Officer

SBE, INC.

**NOTICE OF SPECIAL MEETING OF STOCKHOLDERS
To Be Held On August 10, 2007**

To the Stockholders of SBE, Inc.:

You are cordially invited to attend the Special Meeting of Stockholders of SBE, Inc, a Delaware corporation (the "Company"). The special meeting will be held 4000 Executive Parkway, Suite 200, San Ramon, California 94583. The meeting will begin promptly at 9:00 a.m. California time.

(1) To consider and vote upon the adoption of the Agreement and Plan of Merger and Reorganization, dated January 19, 2007 and amended as of May 18, 2007, between us and Neonode Inc., and to approve the merger of our newly-formed, wholly-owned subsidiary, Cold Winter Acquisition Corporation, with and into Neonode Inc.

(2) To consider and vote upon the approval of our 2006 Equity Incentive Plan, as amended to increase the number of shares authorized for issuance under the plan by 1,000,000 shares of common stock from an aggregate of 300,000 shares to 1,300,000 shares;

(3) To consider and vote upon the approval of an amendment and restatement of our Certificate of Incorporation to effect a stock combination (reverse stock split) of either 1-for-2 or 1-for-3, with the specific ratio to be determined by our board of directors, pursuant to which every two or three shares of outstanding common stock, as applicable, would be reclassified into one share of common stock;

(4) To consider and vote upon the approval of an amendment and restatement of our Certificate of Incorporation to increase the authorized shares of common stock from 25,000,000 to 40,000,000;

(5) To consider and vote upon the approval of an amendment and restatement of our Certificate of Incorporation to change the name of the Company from "SBE, Inc." to "Neonode Inc."; and

(6) To transact such other business as may properly come before the special meeting or any adjournment thereof.

These items of business are more fully described in the Proxy Statement accompanying this Notice.

The record date for the special meeting is July 3, 2007. Only stockholders of record at the close of business on that date may vote at the meeting or any adjournment thereof.

By Order of the Board of Directors,

/s/ David W. Brunton

David W. Brunton
Secretary

San Ramon, California
July 3, 2007

YOU ARE CORDIALLY INVITED TO ATTEND THE SPECIAL MEETING IN PERSON. WHETHER OR NOT YOU EXPECT TO ATTEND THE SPECIAL MEETING, PLEASE COMPLETE, SIGN AND DATE THE ENCLOSED PROXY AND RETURN IT PROMPTLY IN THE ENCLOSED ENVELOPE, WHICH DOES NOT REQUIRE ANY POSTAGE IF MAILED IN THE UNITED STATES, IN ORDER TO ENSURE YOUR REPRESENTATION AT THE SPECIAL MEETING. EVEN IF YOU HAVE VOTED BY PROXY, YOU MAY STILL VOTE IN PERSON IF YOU ATTEND THE MEETING. PLEASE NOTE, HOWEVER, THAT IF YOUR SHARES ARE HELD OF RECORD BY A BROKER, BANK OR OTHER NOMINEE AND YOU WISH TO VOTE AT THE MEETING, YOU MUST OBTAIN A PROXY ISSUED IN YOUR NAME FROM THAT RECORD HOLDER IN ORDER TO VOTE IN PERSON.

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Except as otherwise specifically noted, “SBE,” “we,” “our,” “us” and similar words in this proxy statement refer to SBE, Inc. and its subsidiaries. References to “Neonode” shall mean Neonode Inc. and its wholly-owned subsidiary, Neonode AB.

SUMMARY OF THE MATERIAL TERMS OF THE MERGER

On January 19, 2007, we entered into an Agreement and Plan of Merger and Reorganization with Cold Winter Acquisition Corporation, a Delaware corporation and wholly-owned subsidiary of SBE, referred to in this proxy as the merger sub, and Neonode Inc., a Delaware corporation. We amended this agreement as of May 18, 2007. In this proxy statement, we refer to this agreement, as amended, as the merger agreement. We contemplate that, subject to the terms and conditions of the merger agreement, Merger Sub will be merged with and into Neonode, with Neonode continuing after the merger as the surviving corporation and a wholly-owned subsidiary of SBE. It is anticipated that our name will be changed to “Neonode Inc.” and that Neonode’s name will be modified in connection with the completion of the merger. See the section entitled “The Merger Proposal— General Description of the Merger.”

Neonode is a Sweden-based developer and manufacturer of multimedia mobile handsets. See the section entitled “Business of Neonode.” After the merger is completed, the combined company’s headquarters will be in Stockholm, Sweden, where Neonode’s corporate headquarters and research and development activities are located.

The amended merger agreement provides that SBE will issue, on a pre-split basis, 3.5319 shares of its common stock (as adjusted for stock splits and combinations affecting either the SBE stock or Neonode stock) for each share of Neonode common stock outstanding at closing, and that it will assume all outstanding options and warrants to purchase Neonode common stock such that each option and warrant will become exercisable for 3.5319 (as adjusted for stock splits and combinations affecting either the SBE stock or Neonode stock) shares of SBE common stock for each share of Neonode common stock subject to such option or warrant. Although the exact number of shares to be issued in the merger will be determined at closing, it is currently estimated that SBE will issue approximately 20.4 million shares of its common stock in exchange for outstanding shares of Neonode common stock and will assume options and warrants exercisable for approximately 8.0 million additional shares of SBE common stock. See the section entitled “The Merger Agreement — Merger Consideration.”

The board of directors of SBE has unanimously approved the merger agreement. Neonode and SBE have made customary representations, warranties and covenants in the merger agreement. See the section entitled “The Merger Agreement — Representations and Warranties.” Neonode’s and SBE’s covenants include, among others, that (i) each company will conduct its business in the ordinary course consistent with past practice during the interim period between the execution of the merger agreement and the effective time of the merger, except that SBE was permitted to complete its proposed sale of its embedded business to One Stop Systems, Inc., (ii) each company will not engage in certain types of transactions during such interim period, (iii) each company will call, hold and convene a meeting of its stockholders to consider adoption of the merger agreement, (iv) subject to certain exceptions, the board of directors of each company will recommend to its stockholders that they adopt the merger agreement, (v) neither company will solicit proposals relating to alternative business combination transactions, and (vi) subject to certain exceptions, neither company will enter into discussions concerning or provide confidential information in connection with any proposals for alternative business combination transactions. See the section entitled “The Merger Agreement — Certain Covenants.”

Completion of the merger is subject to customary closing conditions, including, among other things, (i) adoption of the merger agreement by Neonode’s and SBE’s stockholders; (ii) the absence of any order or injunction prohibiting the consummation of the merger; (iii) the accuracy of the representations and warranties of each party and (iv) compliance of each party with its covenants and the execution of six-month lockup agreements by all holders of Neonode securities are conditions to closing. See the section entitled “The Merger Agreement — Conditions to Closing of the Merger.” The merger agreement also contains certain termination rights for both SBE and Neonode, and further provides that, upon a party’s termination of the merger agreement under specified circumstances, such party may be

required to pay the other party a termination fee. See the section entitled “The Merger Agreement — Termination.”

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In addition, stockholders will be asked to vote on proposals to approve an amendment to our equity incentive plan to increase the number of shares authorized for issuance under the plan by 1,000,000 shares of common stock to an aggregate of 1,300,000 shares. Stockholders are also being asked to vote on three proposals to amend and restate our Certificate of Incorporation to (i) effect a stock combination (reverse stock split) of either 1-for-2 or 1-for-3, with the specific ratio to be determined by our board of directors, pursuant to which every two or three shares of outstanding common stock, as applicable, would be reclassified into one share of common stock, (ii) increase the authorized shares from 25,000,000 shares to 40,000,000 shares, and (iii) change our name to “Neonode Inc.” Our board of directors may adjourn the special meeting, if necessary, to permit further solicitation of proxies in the event that there are insufficient votes at the time of the special meeting to adopt the merger proposal or any of the proposals to amend the equity incentive plan or amend and restate the certificate of incorporation. See the sections entitled “Proposal 2 - Approval of Option Plan Increase,” “Proposal 3 - Approval of Reverse Stock Split,” “Proposal 4 - Approval of Authorized Shares Increase,” and “Proposal 5 - Approval of Name Change.”

All of the current members of our board of directors are expected to resign as directors of SBE following the merger, with the exception of John Reardon, who is currently also a director of Neonode Inc. Upon completion of the merger, we expect the board of directors of SBE to consist of Per Bystedt, Susan Major, John Reardon, Magnus Goertz and Johan Ihrfelt. We expect the executive officers of SBE at such time to be Mikael Hagman, David Brunton, Thomas Eriksson and Tommy Hallberg. See section entitled “Directors and Executive Officers of SBE Following the Merger.”

FORWARD-LOOKING STATEMENTS

The information in this proxy statement contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. Statements that are not historical in nature, including statements about beliefs and expectations, are forward-looking statements. Words such as “may,” “will,” “should,” “estimates,” “predicts,” “believes,” “anticipates,” “plans,” “expects,” “intends,” “may expect,” “could,” “should,” “could expect,” “could intend,” and similar expressions are intended to identify these forward-looking statements, but are not the exclusive means of identifying such statements. Such statements are based on currently available operating, financial and competitive information and are subject to various risks and uncertainties. You are cautioned that these forward-looking statements reflect management’s estimates only as of the date hereof, and we assume no obligation to update these statements, even if new information becomes available or other events occur in the future. Actual future results, events and trends may differ materially from those expressed in or implied by such statements depending on a variety of factors, including, but not limited to those set forth under “Risk Factors” and elsewhere in this proxy statement. Important factors that might cause or contribute to such a discrepancy include, but are not limited to:

- the timing and success of our proposed transaction with Neonode;
 - the effect of the transaction on our market price;
 - the factors discussed under “Risk Factors,” beginning on page 11; and
- other risks referenced from time to time in our filings with the Securities and Exchange Commission, or SEC.

WHERE YOU CAN FIND MORE INFORMATION

We are a reporting company and file annual, quarterly and special reports, proxy statements and other information with the SEC. You may read and copy any reports, proxy statements or other information that we file at the SEC’s public reference room at 100 F Street N.E., Room 1580, Washington, D.C., 20549. You can also request copies of these documents by writing to the SEC and paying a fee for the copying costs. Please call the SEC at 1-800-SEC-0330 for more information about the operation of the public reference room. Our public filings with the SEC are also available on the web site maintained by the SEC at <http://www.sec.gov>.

We have supplied all information in this proxy statement relating to SBE. Neonode has supplied all information in this proxy statement relating to Neonode. Seidman & Co., Inc. has supplied the information regarding its fairness opinion.

SBE, INC.
4000 Executive Parkway, Suite 200
San Ramon, California 94583

PROXY STATEMENT
FOR THE SPECIAL MEETING OF STOCKHOLDERS
To Be Held On August 10, 2007

The Special Meeting of Stockholders of SBE, Inc. will be held on August 10, 2007, at 4000 Executive Parkway, Suite 200, San Ramon, California 94583, beginning promptly at 9:00 a.m., local time. The enclosed proxy is solicited by our board of directors. It is anticipated that this proxy statement and the accompanying proxy card will be first mailed to holders of our common stock on or about July 10, 2007.

QUESTIONS AND ANSWERS ABOUT THE PROPOSALS

Why am I receiving this proxy statement and proxy card?

You are receiving a proxy statement and proxy card because you own shares of our common stock. This proxy statement describes the issues on which we would like you, as a stockholder, to vote. It also gives you information on these issues so that you can make an informed decision.

Who can vote at the special meeting?

Only stockholders of record at the close of business on July 3, 2007 will be entitled to vote at the special meeting. On this record date, there were **2,270,139** shares of common stock outstanding and entitled to vote.

Stockholder of Record: Shares Registered in Your Name

If on July 3, 2007 your shares were registered directly in your name with our transfer agent, American Stock Transfer & Trust, then you are a stockholder of record. As a stockholder of record, you may vote in person at the meeting or vote by proxy. Whether or not you plan to attend the meeting, we urge you to fill out and return the enclosed proxy card to ensure your vote is counted.

Beneficial Owner: Shares Registered in the Name of a Broker or Bank

If on July 3, 2007 your shares were held, not in your name, but rather in an account at a brokerage firm, bank, dealer, or other similar organization, then you are the beneficial owner of shares held in "street name" and these proxy materials are being forwarded to you by that organization. The organization holding your account is considered to be the stockholder of record for purposes of voting at the special meeting. As a beneficial owner, you have the right to direct your broker or other agent on how to vote the shares in your account. You are also invited to attend the special meeting. However, since you are not the stockholder of record, you may not vote your shares in person at the meeting unless you request and obtain a valid proxy from your broker or other agent.

What is being voted on?

You are being asked to vote on the following five proposals:

Proposal 1 — To adopt the merger agreement and approve the merger;

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Proposal 2 --- To consider and vote upon the approval of our 2006 Equity Incentive Plan, as amended to increase the number of shares authorized for issuance under the plan by 1,000,000 shares of common stock from an aggregate of 300,000 shares to 1,300,000 shares;

Proposal 3 --- To consider and vote upon the approval of an amendment and restatement of our Certificate of Incorporation to effect a stock combination (reverse stock split) of either 1-for-2 or 1-for-3, with the specific ratio to be determined by our board of directors, pursuant to which every two or three shares of outstanding common stock, as applicable, would be reclassified into one share of common stock;

Proposal 4 --- To consider and vote upon the approval of an amendment and restatement of our Certificate of Incorporation to increase the authorized shares of common stock from 25,000,000 to 40,000,000; and

Proposal 5 --- To consider and vote upon the approval of an amendment and restatement of our Certificate of Incorporation to change the name of the company from “SBE, Inc.” to “Neonode Inc.”

Do the share amounts presented in this proxy statement give effect to the proposed reverse split?

No. All share amounts reflected in this proxy statement give effect to the 1-for-5 reverse split effected by SBE on April 2, 2007, but do not give effect to the additional reverse split proposed for approval in this proxy statement.

How do I vote?