

SPARK NETWORKS INC  
Form 10-K  
March 08, 2013  
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**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**  
WASHINGTON, D.C. 20549

**FORM 10-K**

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

**FOR THE FISCAL YEAR ENDED DECEMBER 31, 2012**

**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. 001-32750**

**SPARK NETWORKS, INC.**

**(EXACT NAME OF REGISTRANT AS SPECIFIED IN ITS CHARTER)**

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**DELAWARE**  
(State or other jurisdiction of  
incorporation or organization)

**20-8901733**  
(I.R.S. Employer  
Identification No.)

**8383 Wilshire Boulevard, Suite 800, Beverly Hills,**

**California**  
(Address of principal executive offices)

**90211**  
(Zip Code)

**REGISTRANT'S TELEPHONE NUMBER, INCLUDING AREA CODE: (323) 658-3000**

**SECURITIES REGISTERED PURSUANT TO SECTION 12(b) OF THE ACT:**

<b>Title of Each Class</b>	<b>Name of Each Exchange on which Registered</b>
<b>Common Stock, par value \$0.001 per share</b>	<b>NYSE MKT</b>

<b>Preferred Share Purchase Rights</b>	<b>NYSE MKT</b>
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**SECURITIES REGISTERED PURSUANT TO SECTION 12(g) OF THE ACT:**

**None.**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes  No

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 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 if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§ 229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

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 definitions of "accelerated filer," "large accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer <input type="checkbox"/>	Accelerated filer <input type="checkbox"/>
Non-accelerated filer <input type="checkbox"/>	Smaller reporting company <input checked="" type="checkbox"/>

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Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes  No

The aggregate market value of the voting and non-voting common equity (which consists solely of shares of common stock) held by non-affiliates of the registrant as of June 30, 2012 was approximately \$59,805,515 based on \$5.16, the closing price of the registrant's common stock on the NYSE MKT on June 29, 2012.

The registrant had 20,958,489 outstanding common stock, par value \$0.001 per share, as of March 8, 2013.

Information required by Items 10, 11, 12, 13 and 14 of Part III are incorporated by reference from the Proxy Statement for the registrant's 2013 Annual Meeting of Stockholders. Except with respect to information specifically incorporated by reference in the Form 10-K, the Proxy Statement is not deemed to be filed as part hereof.

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*Spark Networks and Spark Networks logos are trademarks and/or registered trademarks of Spark Networks USA, LLC, one of the Company's indirect wholly owned subsidiaries.*

**CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS**

This annual report on Form 10-K, including the sections entitled Risk Factors, Management's Discussion and Analysis of Financial Condition and Results of Operations and Business, contains forward-looking statements that involve substantial risks and uncertainties. All statements other than statements of historical facts contained in this annual report on Form 10-K, including statements regarding our future financial position, business strategy and plans and objectives of management for future operations, are forward-looking statements. In some cases, you can identify forward-looking statements by terminology such as believes, expects, anticipates, intends, estimates, may, will, continue, plan, predict, potential or the negative of these terms or other similar expressions. We have based these forward-looking statements on our current expectations and projections about future events and financial trends that we believe may affect our financial condition, results of operations, business strategy and financial needs. Our actual results could differ materially from those anticipated in these forward-looking statements, which are subject to a number of risks, uncertainties and assumptions described in the Risk Factors section and elsewhere in this annual report on Form 10-K, regarding, among other matters:

our ability to attract members to our Web sites, convert members into paying subscribers and retain our paying subscribers;

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the highly competitive nature of our business;

our ability to keep pace with rapid technological change and enhance existing or introduce new services;

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the strength of our existing brands and our ability to maintain and enhance those brands;

our ability to effectively manage our operations and attract and retain qualified personnel;

our dependence upon the telecommunications infrastructure and our networking hardware and software infrastructure;

effectively protecting our internet domain names and proprietary rights;

the effect of new or interpretation of existing laws and regulations on our operations;

the volatility of the price of our equity securities; and

other factors referenced in this annual report on Form 10-K and other reports.

You should not rely upon forward-looking statements as predictions of future events. We cannot assure you that the events and circumstances reflected in the forward-looking statements will be achieved or occur. Although we believe that the expectations reflected in the forward-looking statements are reasonable, we cannot guarantee future results, levels of activity, performance or achievements. Moreover, neither we nor any other person assume responsibility for the accuracy and completeness of the forward-looking statements. Except as required by law, we undertake no obligation to update publicly any forward-looking statements for any reason after the date of this annual report on Form 10-K to conform these statements to actual results or to changes in our expectations.

You should read this annual report on Form 10-K, and the documents that we reference in this annual report on Form 10-K and have filed as exhibits with the Securities and Exchange Commission, completely and with the understanding that our actual future results, levels of activity, performance and achievements may materially differ from what we expect. We qualify all of our forward-looking statements by these cautionary statements.

**ADDITIONAL INFORMATION**

We are required to file annual, quarterly and current reports, proxy statements and other information with the SEC. You can read our SEC filings over the Internet at the SEC's Web site at <http://www.sec.gov>. You may also read and copy any document we file with the SEC at its public reference facilities at 100 F Street, N.E. Washington, DC 20549. You may also obtain copies of the documents at prescribed rates by writing to the Public Reference Section of the SEC at 100 F Street, N.E., Washington, DC 20549. Please call the SEC at 1-800-SEC-0330 for further information on the operation of the public reference facilities.

We maintain a corporate Web site at [www.spark.net](http://www.spark.net). You may access our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and amendments to those reports filed with, or furnished to, the SEC pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, with the SEC free of charge at our Web site as soon as reasonably practicable after such material is electronically filed with, or furnished to, the SEC. The reference to our Web address is provided for informational purposes only and does not constitute incorporation by reference of the information contained on this Web site.

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### PART I

#### ITEM 1. BUSINESS

Unless the context otherwise requires, the terms Company, we, us, and our refer to Spark Networks, Inc., a Delaware corporation and its subsidiaries. The Company was incorporated on April 20, 2007.

#### **Our Business**

We are a leading global media business, focused on creating iconic niche-focused brands that build and strengthen the communities they serve. Our core properties are primarily online singles desktop and mobile Web sites that enable adults to meet, participate in a community and form relationships with like-minded individuals. We provide this opportunity through many features on our Web sites, such as profiles, onsite email centers, real-time chat rooms, instant messaging services and offline singles events.

Today, our largest and most recognizable Web sites are ChristianMingle.com and JDate.com. We also operate several international Web sites and maintain physical operations in both the United States and Israel. Information regarding the geographical source of our revenue and data on our four reportable segments can be found in Note 10 to our Consolidated Financial Statements included in this annual report.

Membership on our online singles Web sites is free and allows registered member to post personal profiles and access our searchable database of member profiles. On most of our Web sites, the ability to initiate most communication with other members requires the payment of monthly subscription fees, which represents our primary source of revenue. We typically offer discounted subscription rates to those members who subscribe for periods longer than one month. Subscriptions renew automatically until subscribers terminate them.

The common stock of Spark Networks, Inc. is traded on the NYSE MKT.

#### **Our Industry**

We believe online personals fulfills significant needs for single adults looking to meet a companion or date. Traditional methods such as printed personals advertisements, offline dating services and public gathering places often do not meet the needs of single people. Printed personals advertisements offer individuals limited personal information and interaction before meeting. Offline dating services are time-consuming, expensive and offer a smaller number of potential partners. Public gathering places such as restaurants, bars and social venues provide a limited opportunity to learn about others prior to an in-person meeting. In contrast, online personals services facilitate interaction between singles by allowing them to screen and communicate with a large number of potential companions. With features such as detailed personal profiles, email and instant messaging, this medium allows users to communicate with other singles at their convenience and affords them the ability to meet multiple people in an anonymous, convenient and secure online setting.

#### **Our Competitive Strengths**

***Strength of the ChristianMingle and JDate Brands.*** We believe ChristianMingle and JDate, with their strong brand recognition, are valuable assets. We believe the size and strength of each of our key brands will allow us to market to and serve each of the Christian and Jewish communities profitably. Because of the strength of our brands, we believe we are not required to spend as much on marketing them as we may on some of our lesser-known brands, or as much as others in the industry may spend on their personals Web sites.

***Affinity-Focused Communities.*** We believe singles are more likely to interact, find friends and form lasting relationships with like-minded individuals who share common values, beliefs, traditions and cultural upbringings. For this reason, the majority of our Web sites are targeted to specific religious, ethnic, geographic and special interest groups. We believe our targeted communities enjoy greater word-of-mouth recognition and consumer loyalty relative to non-targeted communities.

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**Web Site Functionality.** We continually evaluate the functionality of our Web sites to improve our members' experiences. Many of the features we offer, such as onsite emails, real-time chat rooms, instant messaging, E-cards and message boards increase the probability of communication between our members, which we believe increases the number and percentage of members who become and remain paying subscribers.

**Customer Service Focus.** Our multi-lingual call centers and email support team monitor our sites for fraudulent activity, assist members with billing questions, help members complete personal profiles and answer technical questions. We believe the quality of our customer service increases member satisfaction, which increases the number and percentage of members that become and remain paying subscribers.

### **Our Online Personals Services**

Our online personals services offer single adults a convenient and secure setting for meeting other singles. Visitors to our Web sites are encouraged to become registered members and post profiles. Posting a profile is a process in which visitors are asked various questions about themselves, including information such as their tastes in food, hobbies and desired attributes of



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potential partners. Members may also post photos of themselves. Members can perform detailed searches of other profiles and save their preferences, and their profiles can be viewed by other members. In most cases, for a member to initiate email and instant message communication with others, that member must purchase a subscription. A subscription affords access to the paying subscribers' on-site email, instant messaging systems, message boards and chat rooms, enabling such subscribers to communicate with other members and paying subscribers. Our subscription fees are charged on a monthly basis, with discounts for longer-term subscription purchases.

**Online Personals Web Sites.** We believe we are a relatively unique company in the online personals industry because we operate Web sites primarily targeted at specific religious, ethnic, geographic and special interest groups. We currently offer Web sites in English, Hebrew and French. Some of our Web sites, organized by segment, are as follows:

<b>Online Personals Web Site</b>	<b>Target Audience</b>
<b>Jewish Networks</b>	
JDate.com	Jewish singles
JDate.co.uk	Jewish singles
JDate.fr	Jewish singles (French speakers)
JDate.co.il	Jewish singles (Hebrew speakers)
Cupid.co.il	Jewish singles (Hebrew speakers)
<b>Christian Networks</b>	
ChristianMingle.com	Christian singles
ChristianMingle.co.uk	Christian singles
ChristianMingle.com.au	Christian singles
<b>Other Networks</b>	
AdventistSinglesConnection.com	Adventist singles
BBWPersonalsPlus.com	Big beautiful women and admirers
BlackSingles.com	African-American singles
CatholicMingle.com	Catholic singles
DeafSinglesConnection.com	Deaf singles
InterracialSingles.net	Interracial singles
LDSMingle.com	Mormon singles
LDSSingles.com	Mormon singles
MilitarySinglesConnection.com	Military singles
SilverSingles.com	Mature singles
Spark.com	Non-targeted
<b>Offline and Other Businesses</b>	
HurryDate.com	Rapid dating and offline events
Matchnet.com	Free dating search engine
Facelink.com	Free dating search engine

**Web Site Features.** We offer different ways for our members to communicate including:

*On-Site Email.* We provide all paying subscribers with private message centers. These personal on-site email boxes offer features such as customizable folders for storing correspondence, the ability to know when sent messages were read, as well as block and ignore functions, which allow a paying subscriber to control future messages from specific paying subscribers.

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*Hot Lists and Favorites.* Hot Lists enable members to see who is interested in them and to save those favorite members in whom they are interested. Lists include (1) who has viewed your profile, (2) your favorites and (3) who has emailed you. Members can also group their favorites into customized folders and add their own notes, including details included in a member's profile.

*Message Boards.* Message Boards enable paying subscribers to communicate in a group environment with suggested topics for discussion.

*Real-Time Chat Rooms.* Paying subscribers can use our exclusive chat rooms to mix and mingle in real-time, building a sense of community through group discussions. Additional features enable users to add customized graphics such as emoticons to their conversations.

*Ice Breakers.* Members can send pre-packaged opening remarks, referred to on the Web sites as flirts and smiles, to other members or paying subscribers.

*Click!* Our patented *Click!* feature connects members who think they would be compatible with each other. A member clicks yes, no or maybe in another member's profile. When two members click yes in each other's profiles, our patented feature sends an email to both of them alerting them of the match.

*Travel and Events.* As a complement to our online services, we offer travel and other promotional events which allow individuals to meet in a more personal environment. Our travel and events are typically weekend getaways, dinners, speed dating events or other mixers designed to facilitate social interaction.

## **Business Strategy**

We intend to grow revenue by driving additional traffic to our Web sites, increasing the number and percentage of our members who convert to paying subscribers, launching new or acquiring existing businesses, and implementing advertising sales on select Web sites.

*Drive traffic.* We believe there are opportunities to drive additional traffic to our Web sites through integrated and targeted marketing and cross-promotion into vertical affinity markets.

*Integrated and targeted marketing.* We believe targeting potential members with consistent and compelling marketing messages, delivered through a broad mix of marketing channels, will be effective in driving more traffic and a higher percentage of relationship-oriented singles to our Web sites. We intend to use a variety of channels to build our brands and increase our base of subscribers including online and offline advertising, customer relationship management tools, public relations, promotional alliances and special events.

*Cross-promote.* Our large base of members provides us with a significant amount of consumer data to evaluate cross-promotion opportunities for growth. We are able to analyze different groups of members by key metrics such as total potential subscribers and average revenue per paying subscriber and identify those targeted groups that may prefer a service dedicated to their particular affinity groups.

*Increase Conversion Rates.* We believe a growth opportunity lies in our ability to convert more of our members into paying subscribers. We plan to achieve this increase in conversion by focusing on:

*Improved member communications.* We believe enhanced member communications is a key component to growing our business. We continue to focus on improving and enhancing our Web site functionality and features to encourage communications between members. Most of these communications require members to become paying subscribers. We will also continue to inform members

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of new features and functionality to increase the number of visitors to our Web sites who become paying subscribers.

*Improved search.* We believe the more successful members are in finding matches in our database, the more likely they are to want to communicate with those members and to refer their friends to our Web sites. To initiate email and instant message communication or participate in the chat rooms or message boards, members must become paying subscribers. We intend to continue to enhance the quality and relevance of our search results to provide faster, more relevant suggestions.

*Leveraging strong customer service.* Each time a member or a potential member contacts our customer service center by email or phone, he or she represents a potential new paying subscriber. By training our customer service representatives on upselling opportunities, we believe they will continue to be successful in selling our services.

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**Improve ad sales.** We believe there is an opportunity for additional revenue from the sale of advertising on our Web sites. We expect advertisers will continue to seek highly targeted environments such as ours to complement their brands and reach niche consumers. We intend to remain selective about our choices for advertising partners so as not to adversely affect the quality of our user experience. In addition, we are uniquely able to offer advertisers not only online advertising but also an offline presence at our various parties and events around the country.

### **Sales and Marketing**

We engage in a variety of marketing activities intended to drive consumer traffic to our Web sites and allow us the opportunity to introduce our products and services to prospective visitors, members and subscribers. Our marketing efforts are focused online and offline. Our online marketing approach employs a combination of banner and other display advertising. We also rely on search engine marketing and direct email campaigns to attract potential members and paying subscribers, and use a network of online affiliates, through which we acquire traffic.

We supplement our online marketing by employing a variety of offline marketing and business development activities. These include print, television, public relations, event sponsorship and promotional alliances. We believe a more consistent, targeted marketing message, delivered through an array of available marketing channels, will improve consumer awareness of our brands, drive more traffic to our Web sites and, therefore, increase the number of visitors, members and paying subscribers.

### **Customer Service**

Our multi-lingual call centers and email support team monitor our sites for fraudulent activity, assist members with billing questions, help members complete personal profiles and answer technical questions. Customer service representatives receive ongoing training in an effort to better personalize the experience for members and paying subscribers who call or email us and to capitalize on upselling opportunities.

### **Technology**

Throughout the year, projects, such as enhanced mobile services, were successfully deployed using a mix of our proprietary technologies. In addition to our new products, our technology employees maintain our software and hardware infrastructure.

Our network infrastructure and operations are designed to deliver high levels of availability, performance, security and scalability in a cost-effective manner. We operate Web and database servers co-located at third party data center facilities in Irvine, California and Bluffdale, Utah.

### **Intellectual Property**

We rely on a combination of patent, trademark, copyright and trade secret laws in the United States and other jurisdictions as well as confidentiality procedures and contractual provisions to protect our proprietary technology and our brands. We also enter into confidentiality and invention assignment agreements with our employees and consultants and confidentiality agreements with other third parties.

Spark Networks, Spark, ChristianMingle, JDate, and BlackSingles.com are some of our trademarks, whether registered or not, in the United States and several other countries. Spark Networks, Spark, ChristianMingle, JDate, and BlackSingles.com are registered trademarks in the United States. Spark Networks, ChristianMingle and JDate are registered trademarks in the EU. ChristianMingle and JDate are registered trademarks in Australia. JDate is also a registered trademark in Israel and Canada. Our rights to these registered trademarks are perpetual as long as we use them and renew them periodically. We also have a number of other registered and unregistered trademarks. We hold two United States patents for our *Click!* technology, the first of which expires January 24, 2017, that pertain to an automated process for confidentially determining whether people feel mutual attraction or have mutual interests. *Click!* is important to our business in that it is a method and apparatus for detection of reciprocal interests or feelings and subsequent notification of such results. The patents describe the method and apparatus for the identification of a person's level of attraction and the subsequent notification when the feeling or attraction is mutual.

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### **Competition**

We operate in a highly competitive environment with minimal barriers to entry. We believe the primary competitive factors in creating a community on the Internet are functionality, brand recognition, reputation, critical mass of members, member affinity and loyalty, ease-of-use, quality of service and reliability. We compete with a number of large and small companies, including vertically integrated Internet portals and specialty-focused media companies that provide online and offline products and services to the markets we serve. Our principal online personals services competitors include Match.com and OkCupid, two wholly-owned subsidiaries of InterActiveCorp and eHarmony. In addition, we face competition from social networking sites such as Facebook.

### **Government Regulation**

Our business is regulated by diverse and evolving laws and governmental authorities in the United States and other countries in which we operate. We are subject to laws and regulations related to Internet communications, security, privacy, consumer protection, security and data protection, intellectual property rights, advertising, commerce, taxation, entertainment, recruiting and advertising. These laws and regulations are becoming more prevalent, and new laws and regulations are under consideration by the United States Congress, state legislatures and foreign governments. Any failure by us to comply with existing laws and regulations may subject us to liabilities. New laws and regulations governing such matters could be enacted or amendments may be made to existing regulations at any time that could adversely impact our services. Plus, legal uncertainties surrounding domestic and foreign government regulations could increase our costs of doing business, require us to revise our services, prevent us from delivering our services over the Internet or slow the growth of the Internet, any of which could materially adversely affect our business, financial condition and results of operations.

### **Employees**

As of December 31, 2012, we had 182 full-time equivalent employees. We are not subject to any collective bargaining agreements and we believe our relationship with our employees is good.

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**ITEM 1A. RISK FACTORS**

*You should carefully consider the risks described below together with all of the other information included in this report before making an investment decision. The risks described below are the material risks that we are currently aware of that are facing our company. In addition, other sections of this report may include additional factors that could adversely impact our business and operating results. If any of the following risks actually occurs, our business, financial condition or results of operations could be materially adversely affected. In that case, the trading price of our common stock could decline and you may lose all or part of your investment.*

**Risks Related to Our Business**

**Our growth rates may decline and our operating margins could deteriorate; our business, financial condition and results of operations may be adversely affected by a slowdown or contraction in the economy.**

Between 2007 and 2010, our revenue declined and it may decline again in the future. It is possible our operating margins will deteriorate if revenue growth does not exceed planned increases in expenditures for all aspects of our business in an increasingly competitive environment, including sales and marketing, development, technical operations and general and administrative expenses.

Our member and paying subscriber base is composed of individual consumers and in the event of a continued prolonged economic downturn in the United States or in our international markets in which spending by individual consumers drops significantly, our current and potential subscribers may be unable or unwilling to subscribe to our services and our business may be negatively affected. In addition, the current or future tightening of credit in financial markets could result in a decrease in demand for our products and services if subscribers do not have access to credit. To the extent the overall economy continues to deteriorate or does not improve, we may lose existing members and paying subscribers and fail to attract new members and paying subscribers, which could adversely affect our business, financial condition and results of operations.

**We have significant operating losses and we may incur additional losses in the future.**

We have historically generated significant operating losses in some years. As of December 31, 2012, we had an accumulated deficit of approximately \$44.0 million. We had net (loss) income of approximately (\$15.0), (\$1.6) and \$3.7 million for the years ended December 31, 2012, 2011 and 2010, respectively. If our revenue does not grow at a substantially faster rate than our operating expenses, or if our operating expenses are higher than we anticipate, or if our revenue begins to decline but our operating expenses increase, we may not be profitable and we may incur additional losses, which could be significant.

**Adverse capital and credit market conditions could limit our access to capital and increase our cost of capital, which may significantly affect our ability to meet liquidity needs.**

The capital and credit markets have been experiencing extreme volatility over the last few years. In some cases, the markets have exerted downward pressure on availability of liquidity and credit capacity for certain issuers. Without sufficient liquidity, we may be forced to curtail certain operations and may be unable to operate our business as we deem appropriate. Disruptions, uncertainty or volatility in the capital and credit markets may also limit our access to capital required to operate our business. Such market conditions may limit our ability to replace, in a timely manner, maturing liabilities and access the capital necessary to operate and grow our business. As such, we may be forced to delay raising capital or bear an unattractive cost of capital which could decrease our profitability and significantly reduce our financial flexibility. Our results of operations, financial condition, cash flows and capital position could be materially adversely affected by disruptions in the financial markets.

**If our efforts to attract a large number of members, convert members into paying subscribers and retain our paying subscribers are not successful, our revenue and operating results will suffer.**

Our future growth depends on our ability to attract a large number of members, convert members into paying subscribers and retain our paying subscribers. This in turn depends on our ability to deliver a high-quality online personals experience to these members and paying subscribers. As a result, we must continue to invest significant resources in order to enhance our existing products and services and introduce new high-quality products and services that people will use. If we are unable to predict user preferences or industry changes, or if we are unable to modify our products and services on a timely basis, we may lose existing members and paying subscribers and may fail to attract new members and paying subscribers. Our revenue and expenses will also be adversely affected if our innovations are not responsive to the needs of our members and paying subscribers or are not brought to market in an effective or timely manner.



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**We need to maintain or increase our number of average paying subscribers to maintain or increase our current level of revenue.**

The majority of our revenue is generated by internet users that pay us a subscription fee. One of our key performance metrics focuses on the average number of paying subscribers in a given period. The number of monthly average paying subscribers is calculated as the sum of the paying subscribers at the beginning and end of the month, divided by two. Average paying subscribers for periods longer than one month are calculated as the sum of the average paying subscribers for each month, divided by the number of months in the period. Internet users, in general, and users of online personals services specifically, freely navigate and use the services offered by a variety of Web sites. We cannot assure you that our monthly average paying subscriber numbers will remain at consistent levels, and they may decrease in the future, thus decreasing our revenue. In 2012, average paying subscribers increased 32.0% and revenue also increased 27.3% compared to 2011. If we do not constantly attract new paying subscribers at a faster rate than subscription terminations, our average paying subscribers will decrease and we will not be able to maintain or increase our current level of revenue.

**Our subscriber acquisition costs vary depending upon prevailing market conditions and may increase significantly in the future.**

Costs for us to acquire paying subscribers are dependent, in part, upon our ability to purchase advertising at a reasonable cost. Our advertising costs vary over time, depending upon a number of factors, many of which are beyond our control. Historically, we have used online and offline advertising as the primary means of marketing our services. During 2012, our cost of revenue substantially increased, primarily as a result of higher direct marketing expenses related to our Christian Networks.

Despite a slow economy, costs of online and/or offline advertising may continue to increase. If we are not able to reduce our other operating costs, increase our paying subscriber base or increase revenue per paying subscriber to offset these increases, our profitability will be adversely affected.

In addition, our costs to acquire subscribers may increase if we raise prices on our Web sites as potential customers may be slower or more reluctant to purchase higher-priced services.

**We secured a \$15.0 million revolving credit facility, which could restrict our ability to use our operating cash flow for the growth of our business.**

In February 2008, we entered into an initial credit agreement with Bank of America under which we had no outstanding borrowings as of December 31, 2012. If we are unable to pay our debts as they become due, we will be required to pursue one or more alternative strategies, such as refinancing or restructuring our indebtedness, selling additional debt or equity securities or selling assets. We may not be able to refinance our debt or issue additional debt or equity securities on favorable terms, if at all, and if we must sell our assets, it may negatively affect our ability to generate future revenue. If we are unable to meet our obligations as they become due or to comply with various financial covenants contained in the revolving credit facility, this could constitute an event of default.

Our obligations under the credit facility are secured by a lien on substantially all of the assets of Spark Networks USA, LLC, which is the borrower under the credit facility, and by guarantees by Spark Networks, Inc. and a number of our subsidiaries. Any default under the credit facility, could result in an acceleration of payment of all outstanding debt owed at the time, which could materially and adversely affect our financial condition.

**Our revolving credit facility has certain covenants that could restrict how we operate our business.**

The terms of our revolving credit facility contain various provisions that limit our ability to, among other things:

incur or guarantee additional debt;

receive dividends or distributions from our subsidiaries;

make investments and other restricted payments;



make dividend payments or redeem equity securities;

grant liens;

transfer or sell assets;

engage in different lines of business; and

consolidate, merge or transfer all or substantially all of our assets.

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These covenants may affect our ability to operate and finance our business as we deem appropriate. If we are unable to meet our obligations as they become due or to comply with various financial covenants contained in the revolving credit facility, this could constitute an event of default.

### **Competition presents an ongoing threat to the performance of our business.**

We expect competition in the online personals business to continue to increase because there are no substantial barriers to entry. We believe our ability to compete depends upon many factors both within and beyond our control, including the following:

the size and diversity of our member and paying subscriber bases;

the timing and market acceptance of our products and services, including the developments and enhancements to those products and services relative to those offered by our competitors;

customer service and support efforts;

selling and marketing efforts; and

our brand strength in the marketplace relative to our competitors.

We compete with traditional personals services, as well as newspapers, magazines and other traditional media companies that provide personals services. We compete with a number of large and small companies, including Internet portals and specialty-focused media companies that provide online and offline products and services to the markets we serve. Our principal online personals services competitors include Match.com and OkCupid, two wholly-owned subsidiaries of InterActiveCorp and eHarmony. In addition, we face competition from social networking Web sites such as Facebook. Many of our current and potential competitors have longer operating histories, significantly greater financial, technical, marketing and other resources and larger customer bases than we do. These factors may allow our competitors to respond more quickly than we can to new or emerging technologies and changes in customer requirements. These competitors may engage in more extensive research and development efforts, undertake more far-reaching marketing campaigns and adopt more aggressive pricing policies that may allow them to build larger member and paying subscriber bases than ours. Our competitors may develop products or services that are equal or superior to our products and services or that achieve greater market acceptance than our products and services. These activities could attract members and paying subscribers away from our Web sites and reduce our market share.

In addition, current and potential competitors are making, and are expected to continue to make, strategic acquisitions or establishing cooperative and, in some cases, exclusive relationships with significant companies or competitors to expand their businesses or to offer more comprehensive products and services. To the extent these competitors or potential competitors establish exclusive relationships with major portals, search engines and Internet Service Providers, or ISPs, our ability to reach potential members through online advertising may be restricted. Any of these competitors could cause us difficulty in attracting and retaining members and converting members into paying subscribers and could jeopardize our existing affiliate program and relationships with portals, search engines, ISPs and other Web properties.

### **Our efforts to capitalize upon opportunities to expand into new vertical affinity markets may fail and could result in a loss of capital and other valuable resources.**

We may decide to expand into new vertical affinity markets to increase our revenue base. If we expand into such vertical affinity markets, management's time and attention will be less focused on our existing businesses and will require us to invest significant capital resources. The results of any expansion efforts into new vertical affinity markets are unpredictable, and there is no guarantee that our efforts will have a positive effect on our revenue base. We face many risks associated with our planned expansion into new vertical affinity markets, including but not limited to the following:

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competition from pre-existing competitors with significantly stronger brand recognition in the markets we enter;

our improper evaluation of the potential of such markets;

diversion of capital and other valuable resources away from our core business;

foregoing opportunities that are potentially more profitable; and

weakening our current brands by over expansion into too many new markets.

**If we fail to keep pace with rapid technological change, our competitive position will suffer.**

We operate in a market characterized by rapidly changing technologies, evolving industry standards, frequent new product and service announcements, enhancements and changing customer demands. Accordingly, our performance will depend on

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our ability to adapt to rapidly changing technologies and industry standards, and our ability to continually improve the speed, performance, features, ease of use and reliability of our services in response to both evolving demands of the marketplace and competitive service and product offerings. There have been occasions when we have not been as responsive as many of our competitors in adapting our services to changing industry standards and the needs of our members and paying subscribers. Our industry has been subject to constant innovation and competition. New features may be introduced by one competitor, and if they are perceived as attractive to users, they are often copied later by others. Over the last few years, such new feature introductions in the industry have included instant messaging, message boards, E-cards, personality profiles and mobile content delivery. Introducing new technologies into our systems involves numerous technical challenges, substantial amounts of capital and personnel resources and often takes many months to complete. We intend to continue to devote efforts and funds toward the development of additional technologies and services. For example, in 2012 and 2011 we introduced a number of new features, and we anticipate the introduction of additional features in 2013 and 2014. We may not be able to effectively integrate new technologies into our Web sites on a timely basis or at all, which may degrade the responsiveness and speed of our Web sites. Such technologies, even if integrated, may not function as expected.

**Our business depends on establishing and maintaining strong brands and if we are not able to maintain and enhance our brands, we may be unable to expand or maintain our member and paying subscriber bases.**

We believe that establishing and maintaining our brands is critical to our efforts to attract and expand our member and paying subscriber bases. We believe that the importance of brand recognition will continue to increase, given the growing number of Internet sites and the low barriers to entry for companies offering online personals services. To attract and retain members and paying subscribers, and to promote and maintain our brands in response to competitive pressures, we may have to substantially increase our financial commitment to creating and maintaining distinct brand loyalty among these groups. If visitors, members and paying subscribers to our Web sites and our affiliate and distribution associates do not perceive our existing services to be of high quality, or if we introduce new services or enter into new business ventures that are not favorably received by such parties, the value of our brands could be diluted, thereby decreasing the attractiveness of our Web sites to such parties. As a result, our results of operations may be adversely affected by decreased brand recognition.

**If we are unable to attract, retain and motivate key personnel or hire qualified personnel, or such personnel do not work well together, our growth prospects and profitability will be harmed.**

Our performance is largely dependent on the talents and efforts of highly skilled individuals. The loss of any of our management or key personnel could seriously harm our business.

We may also encounter difficulties in recruiting personnel as we become a more mature company in a competitive industry. Competition in our industry for personnel is intense, and we are aware that our competitors have directly targeted our employees. We do not have non-competition agreements with most employees and, even in cases where we do, these agreements are of limited enforceability in California. We also do not maintain any key-person life insurance policies on our executives. The incentives to attract, retain and motivate employees provided by our option grants or by future arrangements, such as cash bonuses, may not be as effective as they have been in the past. If we do not succeed in attracting necessary personnel or retaining and motivating existing personnel, we may be unable to grow effectively.

**Our business depends on our server and network hardware and software and our ability to obtain network capacity; our current safeguard systems may be inadequate to prevent an interruption in the availability of our services.**

The performance of our server and networking hardware and software infrastructure is critical to our business and reputation, to our ability to attract visitors and members to our Web sites, to convert them into paying subscribers and to retain paying subscribers. An unexpected and/or substantial increase in the use of our Web sites could strain the capacity of our systems, which could lead to a slower response time or system failures. Although we have not recently experienced any significant delays, any future slowdowns or system failures could adversely affect the speed and responsiveness of our Web sites and would diminish the experience for our visitors, members and paying subscribers. We face risks related to our ability to scale up to potential increased customer levels while maintaining superior performance. If the usage of our Web sites substantially increases, we may need to purchase additional servers and networking equipment and services to maintain adequate data transmission speeds, the availability of which may be limited or the cost of which may be significant. Any system failure that causes an interruption in service or a decrease in the responsiveness of our Web sites could reduce traffic on our Web sites and, if sustained or repeated, could impair our reputation and the attractiveness of our brands as well as reduce revenue and negatively impact our operating results.

Furthermore, we rely on many different hardware systems and software applications, some of which have been developed internally. If these hardware systems or software applications fail, it would adversely affect our ability to provide our services. If we are unable to protect our data from loss or electronic or magnetic corruption, or if we receive a significant unexpected increase in usage and are not able to rapidly expand our transaction-processing systems and network



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infrastructure without any systems interruptions, it could seriously harm our business and reputation. We have experienced occasional systems interruptions in the past as a result of unexpected increases in usage, and we cannot assure you that we will not incur similar or more serious interruptions in the future. From time to time, our company and our Web sites may be subject to delays and interruptions due to software viruses, or variants thereof, such as internet worms.

In addition, we do not have a high availability disaster recovery system, which means in the event of any catastrophic failure involving our Web sites, we may be unable to serve our Web traffic for a significant period of time. Our Web sites primarily operate from only a single site located in either Southern California or Utah. Any system failure, including network, software or hardware failure, that causes an interruption in the delivery of our Web sites and services or a decrease in responsiveness of our services would result in reduced visitor traffic, reduced revenue and would adversely affect our reputation and brands.

### **The failure to establish and maintain affiliate agreements and relationships could limit the growth of our business.**

We have entered into, and expect to continue to enter into, arrangements with affiliates to increase our member and paying subscriber bases, bring traffic to our Web sites and enhance our brands. Pursuant to our arrangements, an affiliate generally advertises or promotes one or more of our Web sites on its Web site, and earns a fee whenever visitors to its Web site click through the advertisement to one of our Web sites and register or subscribe to one of our Web sites. These affiliate arrangements are easily cancelable, often with one day notice. We do not typically have any exclusivity arrangements with our affiliates, and some of our affiliates may also be affiliates for our competitors. None of these affiliates, individually, represents a material portion of our revenue. If any of our current affiliate agreements are terminated, we may not be able to replace the terminated agreement with an equally beneficial arrangement. We cannot assure you that we will be able to renew any of our current agreements when they terminate or, if we are able to do so, that such renewals will be available on acceptable terms. We also do not know whether we will be able to enter into additional agreements or that any relationships, if entered into, will be on terms favorable to us.

### **We rely on a number of third-party providers and their failure or unwillingness to continue to perform could harm us.**

We rely on third parties to provide important services and technologies to us, including third parties that manage and monitor our offsite data centers located in Southern California and Utah, ISPs, search engine marketing providers and credit card processors. In addition, we license technologies from third parties to facilitate our ability to provide our services. Any failure on our part to comply with the terms of these licenses could result in the loss of our rights to continue using the licensed technology, and we could experience difficulties obtaining licenses for alternative technologies. Furthermore, any failure of these third parties to provide these and other services, or errors, failures, interruptions or delays associated with licensed technologies, could significantly harm our business. Any financial or other difficulties our providers face may have negative effects on our business, the nature and extent of which we cannot predict. Except to the extent of the terms of our contracts with such third party providers, we exercise little or no control over them, which increases our vulnerability to problems with the services and technologies they provide and license to us. In addition, if any fees charged by third-party providers were to substantially increase, such as if ISPs began charging us for emails sent by our paying subscribers to other members or paying subscribers, we could incur significant additional losses.

### **We may not be effective in protecting our Internet domain names or proprietary rights upon which our business relies or in avoiding claims that we infringe upon the proprietary rights of others.**

We regard substantial elements of our Web sites and the underlying technology as proprietary, and attempt to protect them by relying on trademark, service mark, copyright, patent and trade secret laws and restrictions on disclosure and transferring title and other methods. We also generally enter into confidentiality agreements with our employees and consultants, and generally seek to control access to and distribution of our technology, documentation and other proprietary information. Despite these precautions, it may be possible for a third party to copy or otherwise obtain and use our proprietary information without authorization or to develop similar or superior technology independently. Effective trademark, service mark, copyright, patent and trade secret protection may not be available in every country in which our services are distributed or made available through the Internet, and policing unauthorized use of our proprietary information is difficult. Any such misappropriation or development of similar or superior technology by third parties could adversely impact our profitability and our future financial results.

We believe that our Web sites, services, trademarks, patent and other proprietary technologies do not infringe upon the rights of third parties. However, there can be no assurance that our business activities do not and will not infringe upon the proprietary rights of others, or that other parties will not assert infringement claims against us. We are aware that other parties utilize the Spark name, or other marks that incorporate it, and those parties may have rights to such marks that are superior to ours. From time to time, we have been, and expect to continue to be, subject to claims in the ordinary course of business



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including claims of alleged infringement of the trademarks, service marks and other intellectual property rights of third parties by us. Although such claims have not resulted in any significant litigation or had a material adverse effect on our business to date, any such claims and resultant litigation might subject us to temporary injunctive restrictions on the use of our products, services or brand names and could result in significant liability for damages for intellectual property infringement, require us to enter into royalty agreements, or restrict us from using infringing software, services, trademarks, patents or technologies in the future. Even if not meritorious, such litigation could be time-consuming and expensive and could result in the diversion of management's time and attention away from our day-to-day business.

We currently hold various Web domain names related to our brands and in the future may acquire new Web domain names. The regulation of domain names in the United States and in foreign countries is subject to change. Governing bodies may establish additional top level domains, appoint additional domain name registrars or modify the requirements for holding domain names. As a result, we may be unable to acquire or maintain relevant domain names in all countries in which we conduct business. Furthermore, the relationship between regulations governing domain names and laws protecting trademarks and similar proprietary rights is unclear. We may be unable to prevent third parties from acquiring domain names that are similar to, infringe upon or otherwise decrease the value of our existing trademarks and other proprietary rights or those we may seek to acquire. Any such inability to protect ourselves could cause us to lose a significant portion of our members and paying subscribers to our competitors.

**We may face potential liability, loss of users and damage to our reputation for violation of our privacy policy or privacy laws and regulations or be required to change our business practices in an adverse manner.**

Our privacy policy prohibits the sale or disclosure to any third party of any member's personal identifying information, except to the extent expressly set forth in the policy. Growing public concern about privacy and the collection, distribution and use of information about individuals may subject us to increased regulatory scrutiny and/or litigation. In the past, the Federal Trade Commission has investigated companies that have used personally identifiable information without permission or in violation of a stated privacy policy. If we are accused of violating the stated terms of our privacy policy, we may be forced to expend significant amounts of financial and managerial resources to defend against these accusations and we may face potential liability. Our membership database holds confidential information concerning our members, and we could be sued if any of that information is misappropriated or if a court determines that we have failed to protect that information.

In addition, our affiliates handle personally identifiable information pertaining to our members and paying subscribers. Both we and our affiliates are subject to laws and regulations related to Internet communications, consumer protection, advertising, privacy, security and data protection. For example, we are subject to the CAN-SPAM Act of 2003, California's Information Practice Act, which requires notification to users when there is a security breach of personal data, and other state regulations that impose additional requirements on data protection, such as the requirement to encrypt data sent over the internet. If we or our affiliates are found to be in violation of these laws and regulations, we may become subject to administrative fines or litigation or be required to change our data practices, which could materially increase our expenses, adversely affect our results of operations and cause the value of our securities to decline.

Proposed legislation concerning data protection is currently pending at the U.S federal and state level as well as in certain foreign jurisdiction. In addition, the interpretation and application of data protection laws in Europe, the United States and elsewhere are still uncertain. It is possible that these laws may be interpreted and applied in a manner that is inconsistent with our data practices. If so, in addition to the possibility of fines, this could result in an order requiring that we change our data practices, which could have an adverse effect on our business. Complying with these laws as they evolve could cause us to incur substantial costs or require us to change our business practices in a manner adverse to our business.

**We may be liable as a result of information retrieved from or transmitted over the Internet.**

We may be sued for defamation, civil rights infringement, negligence, copyright or trademark infringement, invasion of privacy, personal injury, product liability or under other legal theories relating to information that is published or made available on our Web sites and the other sites linked to it. These types of claims have been brought, sometimes successfully, against online services in the past. We also offer messaging services on our Web sites and send emails directly and through third parties, which may subject us to potential risks, such as liabilities or claims resulting from unsolicited email or spamming, lost or misdirected messages, security breaches, illegal or fraudulent use of email or personal information or interruptions or delays in email service. Our insurance does not specifically provide for coverage of these types of claims and, therefore, may be inadequate to protect us against them. In addition, we could incur significant costs in investigating and defending such claims, even if we ultimately are not held liable. If any of these events occurs, our revenue could be materially adversely affected or we could incur significant additional expense, and the market price of our securities may decline.



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**Our quarterly results may fluctuate because of many factors and, as a result, investors should not rely on quarterly operating results as indicative of future results.**

Fluctuations in operating results or the failure of operating results to meet the expectations of public market analysts and investors may negatively impact the value of our common stock. Quarterly operating results may fluctuate in the future due to a variety of factors that could affect revenue or expenses in any particular quarter. Fluctuations in quarterly operating results could cause the value of our securities to decline. Investors should not rely on quarter-to-quarter comparisons of results of operations as an indication of future performance. Factors that may affect our quarterly results include:

the demand for, and acceptance of, our online personals services and enhancements to these services;

the timing and amount of our subscription revenue;

the introduction, development, timing, competitive pricing and market acceptance of our Web sites and services and those of our competitors;

the magnitude and timing of marketing initiatives and capital expenditures relating to expansion of our operations;

the cost and timing of online and offline advertising and other marketing efforts;

the maintenance and development of relationships with portals, search engines, ISPs and other Web properties and other entities capable of attracting potential members and paying subscribers to our Web sites;

technical difficulties, system failures, system security breaches, or downtime of the Internet, in general, or of our products and services, in particular;

costs related to any acquisitions or dispositions of technologies or businesses;

fluctuations in foreign exchange rates; and

general economic conditions, as well as those specific to the Internet, online personals and related industries.

As a result of the factors listed above and because the online personals business is still immature, making it difficult to predict consumer demand, it is possible that in future periods results of operations may be below the expectations of public market analysts and investors. This could cause the market price of our securities to decline.

**We may need additional capital to finance our growth or to compete, which may cause dilution to existing stockholders or limit our flexibility in conducting our business activities.**

We currently anticipate that existing cash and cash equivalents and cash flow from operations will be sufficient to meet our anticipated needs for working capital, operating expenses and capital expenditures for at least the next twelve months. However, we may need to raise additional capital in the future to fund expansion, whether in new vertical affinity or geographic markets, develop newer or enhanced services, respond to competitive pressures or acquire complementary businesses, technologies or services. Such additional financing may not be available on terms

acceptable to us or at all. To the extent that we raise additional capital by issuing equity securities, our stockholders may experience substantial dilution, and to the extent we engage in additional debt financing, if available, we may become subject to additional restrictive covenants that could limit our flexibility in conducting future business activities. If additional financing is not available or not available on acceptable terms, we may not be able to fund our expansion, promote our brands, take advantage of acquisition opportunities, develop or enhance services or respond to competitive pressures.

**If we fail to maintain an effective system of internal control over financial reporting, we may not be able to accurately report our financial results or prevent fraud. As a result, current and potential stockholders could lose confidence in our financial reporting, which would harm the value of our stock.**

Effective internal controls over financial reporting are necessary for us to provide reliable financial reports, effectively prevent fraud and operate as a public company. If we cannot provide reliable financial reports or prevent fraud, our reputation and operating results would be harmed. We have, in the past, discovered and may, in the future, discover areas of our internal controls over financial reporting that need improvement. As a U.S. public company, we are subject to the reporting requirements of the Sarbanes-Oxley Act of 2002. We are required to annually assess and report on our internal controls over financial reporting. If we are unable to adequately maintain or improve our internal controls over financial reporting, we may report that our internal controls are ineffective. Ineffective internal controls over financial reporting could also cause investors to lose confidence in our reported financial information which would likely have a negative effect on the trading price of our securities or could affect our ability to access the capital markets and which could result in regulatory proceedings against us by, among others, the U.S. Securities Exchange Commission.

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### **Acquisitions could result in operating difficulties, dilution and other harmful consequences.**

We have historically and may in the future further extend and develop our presence, both within the United States and internationally, partially through acquisitions of entities offering online personals services and related businesses. We have relatively limited experience acquiring companies and the companies we have acquired have been small. We have evaluated, and continue to evaluate, a wide array of potential strategic transactions. From time to time, we may engage in discussions regarding potential acquisitions, some of which may divert significant resources away from our daily operations. In addition, the process of integrating an acquired company, business or technology is risky and may create unforeseen operating difficulties and expenditures. Some areas where we may face risks include:

the need to implement or remediate controls, procedures and policies of acquired companies that lacked appropriate controls, procedures and policies prior to the acquisition;

diversion of management time and focus from operating our business to acquisition integration challenges;

cultural challenges associated with integrating employees from an acquired company into our organization;

retaining employees from the businesses we acquire; and

the need to integrate each company's accounting, management information, human resources and other administrative systems to permit effective management.

The anticipated benefit of many of our acquisitions may not materialize. Future acquisitions could result in potentially dilutive issuances of our equity securities, the incurrence of debt, contingent liabilities or amortization expenses, or write-offs, any of which could harm our financial condition. Future acquisitions may require us to obtain additional equity or debt financing, which may not be available on favorable terms or at all.

### **Our limited experience outside the United States increases the risk that any international expansion efforts and operations will not be effective.**

One of our strategies is to expand our presence in international markets. Although we currently have offices in Israel and Web sites that directly serve the French, Israeli and United Kingdom markets, we have only limited experience with operations outside the United States. Our primary international operations are in Israel, which carries additional risk for our business as a result of continuing hostilities there. Expansion into international markets requires management time and capital resources. In addition, we face the following additional risks associated with our expansion outside the United States:

challenges caused by distance, language and cultural differences;

local competitors with substantially greater brand recognition, more users and more traffic than we have;

our need to create and increase our brand recognition and improve our marketing efforts internationally and build strong relationships with local affiliates;

longer payment cycles in some countries;

credit risk and higher levels of payment fraud in some countries;

different legal and regulatory restrictions among jurisdictions;

political, social and economic instability;

potentially adverse tax consequences; and

higher costs associated with doing business internationally.

**Our international operations subject us to risks associated with currency fluctuations.**

Our foreign operations may subject us to currency fluctuations and such fluctuations may adversely affect our financial position and results. However, sales and expenses to date have occurred primarily in the United States. For this reason, we have not engaged in foreign exchange hedging. Currency risk positions could change correspondingly and the use of foreign exchange hedging instruments could become necessary. Effects of exchange rate fluctuations on our financial condition, operations and profitability may depend on our ability to manage our foreign currency risks. There can be no assurance that steps taken by management to address foreign currency fluctuations will eliminate all adverse effects and, accordingly, we may suffer losses due to adverse foreign currency fluctuation.

**Our business could be significantly impacted by the occurrence of natural disasters and other catastrophic events.**

Our operations depend upon our ability to maintain and protect our network infrastructure, hardware systems and software applications, which are housed primarily at data centers located in Southern California and Utah that are managed by third parties. Our business is therefore susceptible to earthquakes, tsunamis and other catastrophic events, including acts of terrorism. We currently do not possess a high availability disaster recovery system. As a result, outages and downtime caused by natural disasters and other events out of our control, which affect our systems or data centers, could adversely affect our reputation, brands and business.

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### **We hold a fixed amount of insurance coverage, and if we were found liable for an uninsured claim, or claim in excess of our insurance limits, we may be forced to expend significant capital to resolve the uninsured claim.**

We contract for a fixed amount of insurance to cover potential risks and liabilities, including, but not limited to, property and casualty insurance, general liability insurance and errors and omissions liability insurance. If we decide to pursue obtaining additional insurance coverage in the future, it is possible that (1) we may not be able to get enough insurance to meet our needs; (2) we may have to pay very high premiums for the additional coverage; (3) we may not be able to acquire any insurance for certain types of business risk; or (4) we may have gaps in coverage for certain risks. This could leave us exposed to potential uninsured claims for which we could have to expend significant amounts of capital resources. Consequently, if we were found liable for a significant uninsured claim in the future, we may be forced to expend a significant amount of our operating capital to resolve the uninsured claim.

### **Our services may not be well-suited to many alternate Web access devices, and as a result the growth of our business could be negatively affected.**

The number of people who access the Internet through devices other than desktop and laptop computers, including mobile telephones and other handheld computing devices, has increased dramatically in the past few years, and we expect this growth to continue. The lower resolution, functionality and memory currently associated with such mobile devices may make the use of our services through such mobile devices more difficult and generally impairs the member experience relative to access via desktop and laptop computers. If we are unable to attract and retain a substantial number of such mobile device users to our online personals services or if we are unable to develop services that are more compatible with such mobile communications devices in a timely fashion, our growth could be adversely affected.

## **Risks Related to Our Industry**

### **Our network is vulnerable to security breaches and inappropriate use by Internet users, which could disrupt or deter future use of our services.**

Concerns over the security of transactions conducted on the Internet and the privacy of users may inhibit the growth of the Internet and other online services generally, and online commerce services, like ours, in particular. To date, we have not experienced any material breach of our security systems; however, a failure on our part to effectively prevent security breaches could significantly harm our business, reputation and results of operations and could expose us to lawsuits by state and federal consumer protection agencies, by governmental authorities in the jurisdictions in which we operate, and by consumers. Anyone who is able to circumvent our security measures could misappropriate proprietary information, including customer credit card and personal data, cause interruptions in our operations or damage our brand and reputation. Such breach of our security measures could involve the disclosure of personally identifiable information and could expose us to a material risk of litigation, liability or governmental enforcement proceeding. We cannot assure you that our financial systems and other technology resources are completely secure from security breaches or sabotage, and we have occasionally experienced security breaches and attempts at hacking. We may be required to incur significant additional costs to protect against security breaches or to alleviate problems caused by such breaches. Any well-publicized compromise of our security or the security of any other Internet provider could deter people from using our services or the Internet to conduct transactions that involve transmitting confidential information or downloading sensitive materials, which could have a detrimental impact on our existing and potential customer base.

Computer viruses may cause delays or other service interruptions and could damage our reputation, affect our ability to provide our services and adversely affect our revenue. The inadvertent transmission of computer viruses could also expose us to a material risk of loss or litigation and possible liability. Moreover, if a computer virus affecting our system were highly publicized, our reputation could be significantly damaged, resulting in the loss of current and future members and paying subscribers.

### **We face certain risks related to the physical and emotional safety of our members and paying subscribers.**

The nature of online personals services is such that we cannot control the actions of our members and paying subscribers in their communication or physical actions. There is a possibility that one or more of our members or paying subscribers could be physically or emotionally harmed following interaction with another one of our members or paying subscribers. We warn our members and paying subscribers that we do not conduct background checks on other members and paying subscribers

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and, given our lack of physical presence, we do not take any action to ensure personal safety on a meeting between members or paying subscribers arranged following contact initiated via our Web sites. If an unfortunate incident of this nature occurred in a meeting of two people following contact initiated on one of our Web sites or a Web site of one of our competitors, any resulting negative publicity could materially and adversely affect us or the online personals industry in general. Any such incident involving one of our Web sites could damage our reputation and our brands. This, in turn, could adversely affect our revenue and could cause the value of our common stock to decline. In addition, the affected members or paying subscribers could initiate legal action against us, which could cause us to incur significant expense, whether we were successful or not, and damage our reputation.

### **We are or may be subject to litigation and regulatory actions that may detract management and could have a material adverse effect on our financial condition and results of operations.**

We are a party to various litigation claims and legal proceedings, including a purported class action lawsuit and litigation involving our intellectual property. We may also be subject to regulatory actions and litigation based on our business operations. For example, we supply online personals services and in many jurisdictions, companies deemed dating service providers are subject to additional regulation, while companies that provide personals services are not generally subject to similar regulation. Because personals services and dating services can seem similar, we are exposed to potential litigation, including class action lawsuits, associated with providing our personals services. In the past, a small percentage of our members have alleged that we are a dating service provider, and, as a result, they claim that we are required to comply with regulations that include, but are not limited to, providing language in our contracts that may allow members to (1) rescind their contracts within a certain period of time, (2) demand reimbursement of a portion of the contract price if the member dies during the term of the contract and/or (3) cancel their contracts in the event of disability or relocation. If a court holds that we have provided and are providing dating services of the type the dating services regulations are intended to regulate, we may be required to comply with regulations associated with the dating services industry and be liable for any damages as a result of our past non-compliance.

Previously, we were subject to three separate yet similar class action complaints filed against us in state court alleging violations of dating service statutes one in each of Illinois, New York and California. Although all of the complaints were dismissed and are no longer subject to appeal, the opinion in the Illinois case provided that we are subject to the Illinois Dating Services Act and, as such, our subscription agreements violate the act and are void and unenforceable. This ruling may subject us to potential liability for claims brought by the Illinois Attorney General or customers that have been injured by such violation of the statute.

We review the litigation and accrue appropriate amounts where necessary. These assessments and estimates are based on information available to management at the time and involve a significant amount of management judgment. As a result, actual outcomes or losses may differ materially from those envisioned by our current assessments and estimates. We intend to defend vigorously against any litigation claims. However, no assurance can be given that these matters will be resolved in our favor and, depending on the outcome of these disputes, we may choose to alter our business practices. Our failure to successfully defend or settle litigation claims could result in liability that, to the extent not covered by our insurance, could have a material adverse effect on our financial condition and results of operations. Furthermore, the defense of litigation claims may also be both time consuming and expensive.

### **We are exposed to risks associated with credit card fraud and credit payment, which, if not properly addressed, could increase our operating expenses.**

We depend on the continuing availability of credit card usage to process subscriptions and this availability, in turn, depends on acceptable levels of chargebacks and fraud performance. We have suffered losses and may continue to suffer losses as a result of subscription orders placed with fraudulent credit card data, even though the associated financial institution approved payment. Under current credit card practices, a merchant is liable for fraudulent credit card transactions when, as is the case with the transactions we process, that merchant does not obtain a cardholder's signature. Our failure to adequately control fraudulent credit card transactions would result in significantly higher credit card-related costs and, therefore, increase our operating expenses and may preclude us from accepting credit cards as a means of payment.

### **We face risks associated with our dependence on computer and telecommunications infrastructure.**

Our services are dependent upon the use of the Internet and telephone and broadband communications to provide high-capacity data transmission without system downtime. There have been instances where regional and national telecommunications outages have caused us, and other Internet businesses, to experience systems interruptions. Any additional interruptions, delays or capacity problems experienced with telephone or broadband connections could adversely affect our ability to provide services to our customers. The temporary or permanent loss of all, or a portion, of the telecommunications system could cause disruption to our business activities and result in a loss of revenue. Additionally, the telecommunications industry is subject to regulatory control. Amendments to current regulations, which could affect our telecommunications providers, could disrupt or adversely affect the profitability of our business.



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In addition, if any of our current agreements with telecommunications providers were terminated, we may not be able to replace any terminated agreements with equally beneficial ones. There can be no assurance that we will be able to renew any of our current agreements when they expire or, if we are able to do so, that such renewals will be available on acceptable terms. We also do not know whether we will be able to enter into additional agreements or that any relationships, if entered into, will be on terms favorable to us.

### **Our business depends, in part, on the growth and maintenance of the Internet, and our ability to provide services to our members and paying subscribers may be limited by outages, interruptions and diminished capacity of the Internet.**

Our performance will depend, in part, on the continued growth and maintenance of the Internet. This includes maintenance of a reliable network backbone with the necessary speed, data capacity and security for providing reliable Internet services. Internet infrastructure may be unable to support the demands placed on it if the number of Internet users continues to increase, or if existing or future Internet users access the Internet more often or increase their bandwidth requirements. In addition, viruses, worms and similar programs may harm the performance of the Internet. We have no control over the third-party telecommunications, cable or other providers of access services to the Internet that our members and paying subscribers rely upon. There have been instances where regional and national telecommunications outages have caused us to experience service interruptions during which our members and paying subscribers could not access our services. Any additional interruptions, delays or capacity problems experienced with any points of access between the Internet and our members could adversely affect our ability to provide services reliably to our members and paying subscribers. The temporary or permanent loss of all, or a portion, of our services on the Internet, the Internet infrastructure generally, or our members and paying subscribers ability to access the Internet could disrupt our business activities, harm our business reputation, and result in a loss of revenue. Additionally, the Internet, electronic communications and telecommunications industries are subject to federal, state and foreign governmental regulation. New laws and regulations governing such matters could be enacted or amendments may be made to existing regulations at any time that could adversely impact our services. Any such new laws, regulations or amendments to existing regulations could disrupt or adversely affect the profitability of our business.

### **We are subject to burdensome government regulations and legal uncertainties affecting the Internet that could adversely affect our business.**

Our business is regulated by diverse and evolving laws and governmental authorities in the United States and other countries in which we operate. Legal uncertainties surrounding domestic and foreign government regulations could increase our costs of doing business, require us to revise our services, prevent us from delivering our services over the Internet or slow the growth of the Internet, any of which could increase our expenses, reduce our revenue or cause our revenue to grow at a slower rate than expected and materially adversely affect our business, financial condition and results of operations. Laws and regulations related to Internet communications, security, privacy, intellectual property rights, commerce, taxation, entertainment, recruiting and advertising are becoming more prevalent, and new laws and regulations are under consideration by the United States Congress, state legislatures and foreign governments. For example, in recent years, legislation related to the use of background checks for users of online personals services was proposed in Ohio, Texas, California, Michigan, New Jersey, Florida and Virginia. The New Jersey legislature enacted such a law in 2008 and other state legislatures may still be considering the implementation of such legislation. The interpretation of the New Jersey statute as well as the enactment of any of these proposed laws could require us to alter our service offerings and could negatively impact our performance by making it more difficult and costly to obtain new subscribers and may also subject us to additional liability for failure to properly screen our subscribers. Promulgation of new laws, changes in current laws, the existence of ambiguous laws that are difficult to implement, changes in interpretations by courts and other governments officials of existing laws, our inability or failure to comply with current or future laws or strict enforcement by current or future government officers of current or future laws could adversely affect us by reducing our revenue, increasing our operating expenses and exposing us to significant potential liabilities.

Furthermore, in part as a result of current economic conditions, some states have begun to, and others may in the future, impose state taxes on services provided through the Internet, such as online personals, which will increase the cost of our services and could adversely affect our business. Any legislation and regulations enacted or newly enforced or restrictions arising from current or future government investigations or policy could dampen the growth in use of the Internet, generally, decrease the profitability of Internet related businesses and diminish the acceptance of the Internet as a communications, commercial, entertainment, recruiting and advertising medium. In addition to new laws and regulations being adopted, existing laws that are not currently being applied to the Internet may subsequently be applied to it, in some cases with a retroactive effect or penalty, and, in several jurisdictions, legislatures are considering laws and regulations that would apply to the online personals industry in particular. Many areas of law affecting the Internet and online personals



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remain unsettled, even in areas where there has been some legislative action. It may take years to determine whether and how existing laws such as those governing consumer protection, intellectual property, libel and taxation apply to the Internet or to our services. In the normal course of our business, we handle personally identifiable information pertaining to our members and paying subscribers residing in the United States and other countries. In recent years, many of these countries have adopted privacy, security and data protection laws and regulations intended to prevent improper uses and disclosures of personally identifiable information. In addition, some jurisdictions impose database registration requirements for which significant monetary and other penalties may be imposed for noncompliance. These laws may impose costly administrative requirements, limit our handling of information, and subject us to increased government oversight and financial liabilities. Privacy laws and regulations in the United States and foreign countries are subject to change and may be inconsistent, and additional requirements may be imposed at any time. These laws and regulations, the costs of complying with them, administrative fines for noncompliance and the possible need to adopt different compliance measures in different jurisdictions could materially increase our expenses and cause the value of our securities to decline.

### **Risks Related to Owning Our Securities**

**The price of our stock may be volatile, and if an active trading market for our stock does not develop, the price of our stock may suffer and decline.**

In July 2007, we completed the Scheme of Arrangement of Spark Networks plc to become the Company's wholly-owned subsidiary. The American Depositary Shares representing ordinary shares of Spark Networks plc began trading on the American Stock Exchange (now NYSE MKT) in February 2006 and our shares of common stock began trading in July 2007 after the completion of our Scheme of Arrangement. Prior to that, there was no public market for our securities in the United States. Accordingly, we cannot assure you that an active trading market will develop or be sustained or that the market price of our common stock will not decline. The price at which our common stock trades is likely to be highly volatile and may fluctuate substantially due to many factors, some of which are outside of our control. In addition, the stock market has experienced significant price and volume fluctuations that have affected the market price for the stock of many technology, communications and entertainment and media companies. Those market fluctuations were sometimes unrelated or disproportionate to the operating performance of these companies. Any significant stock market fluctuations in the future, whether due to our actual performance or prospects or not, could result in a significant decline in the market price of our securities.

**Our principal stockholders can exercise significant influence over us, and, as a result, may be able to delay, deter or prevent a change of control or other business combination.**

As of March 8, 2013, Great Hill Investors, LLC, North Run Advisors, LLC, and Osmium Partners, LLC and their respective affiliates beneficially owned approximately, in the aggregate, 65.2% of our outstanding common stock. Great Hill Investors, LLC and its affiliates (Great Hill) became our largest stockholder on December 1, 2005 when it purchased an aggregate of 6,000,000 ordinary shares in four privately negotiated transactions and it subsequently acquired an additional 3,085,000 shares. Great Hill and its affiliates held an aggregate of 9,085,000 shares of common stock as of March 8, 2013. These stockholders possess significant influence over our company. Such ownership and control may have the effect of delaying or preventing a change in control of our company, impeding a merger, consolidation, takeover or other business combination involving our company or discourage a potential acquirer from making a tender offer or otherwise attempting to obtain control of our company. Furthermore, such ownership may have the effect of control over substantially all matters requiring stockholder approval, including the election of directors. Other than the arrangement to elect a director at the selection of Great Hill which affects some of these stockholders, as discussed below, we do not expect that these stockholders will vote together as a group. It should be noted that Great Hill Investors, LLC ownership information is based on a Schedule 13D/A filed with the SEC on March 2, 2010, North Run Advisors, LLC ownership information is based on a Schedule 13F filed with the SEC on February 8, 2013 and Osmium Partners, LLC ownership information is based on a Schedule 13G filed with the SEC on February 12, 2013.

**Our largest stockholder, Great Hill, also possesses a significant amount of voting power and an ability to elect a director of our company.**

As of March 8, 2013, Great Hill beneficially owned 9,085,000 shares of our common stock, or approximately 43.4% of our outstanding common stock, and may have voting control over additional securities to elect a director of our company subject to the terms and conditions of the share purchase agreements entered into on December 1, 2005 with certain selling stockholders (collectively, the Selling Stockholders), to the extent the Selling Stockholders own shares of Spark. Pursuant to the terms of the share purchase agreements with each of the Selling Stockholders, for so long as Great Hill collectively owns at least 10% or 5%, depending on the Selling Stockholder, each Selling Stockholder agreed that:

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if at any time Great Hill notifies a Selling Stockholder of its desire and intention to designate a single director ( Great Hill Director ) in advance of any meeting of the stockholders for the election of directors or when any other approval is sought with respect to the election of directors, such Selling Stockholder agreed to vote all of its voting shares that are owned or held of record by such Selling Stockholder or to which it has voting power or can direct, restrict or control any such voting power (the Remaining Shares ) to elect such Great Hill Director; and

if at any time Great Hill notifies a Selling Stockholder of its desire and intention to remove or replace a Great Hill Director or to fill a vacancy caused by the resignation of a Great Hill Director, such Selling Stockholder agreed to cooperate in causing the requested removal and/or replacement by voting in the appropriate manner.

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Each Selling Stockholder also irrevocably granted, and appointed Michael A. Kumin, and any other person who shall be designated by Great Hill, as such Selling Stockholder's proxy and attorney (with full power of substitution), to vote all of such Selling Stockholder's Remaining Shares held at the time such consent is sought or meeting is held in any circumstances where a vote, consent or other approval is sought to elect a Great Hill Director. The covenants and obligations of each Selling Stockholder terminate after a Great Hill Director (together with any replacements therefore) has served a single, full term of office of three years, in accordance with the articles and memorandum of association, as in effect on December 1, 2005 when our parent entity was Spark Networks plc.

As a result of its voting arrangement with the Selling Stockholders, Great Hill is able to select a member of our board of directors at its discretion and is able to exercise significant influence over our company. This influence has the potential to delay, prevent, change or initiate a change in control, acquisition, merger or other transaction, such as a transaction to take the Company private.

### **We may implement stock repurchase plans, which may restrict our funds available for other actions and negatively affect the market price of our securities.**

In the past, we have implemented stock repurchase plans and may implement stock repurchase plans in the future. A stock repurchase plan may not have the effects anticipated by our board of directors and may instead harm the market price and liquidity of our securities. The full implementation of any repurchase plan could use a significant portion of our cash reserves, and this use of cash could limit our future flexibility to complete acquisitions of businesses or technology or other transactions. Implementation of a repurchase plan would also result in an increase in the percentage of common stock owned by our existing stockholders, and such increase may trigger disclosure or other regulatory requirements for our larger stockholders. As a result, certain stockholders may liquidate a portion of their holdings, which may have a negative impact on the market price of our securities. Furthermore, repurchases of stock may affect the trading of our common stock to the extent we fail to satisfy continued-listing requirements of the exchange on which our stock trades, including those based on numbers of holders or public float of our common stock. A repurchase plan will also reduce the number of shares of our common stock in the market, which may impact the development of an active trading market in our stock, causing a negative impact on the market price of our stock.

### **We have never paid any dividend and do not expect to pay dividends in the foreseeable future.**

To date, we have not declared or paid any cash dividends on our common stock and currently intend to retain any future earnings for funding growth. We do not anticipate paying any dividends in the foreseeable future. As a result, you should not rely on an investment in our stock if you require dividend income. Capital appreciation, if any, of our stock may be your sole source of gain for the foreseeable future.

### **Our charter documents and our stockholder rights plan may have anti-takeover effects that could prevent a change in control, which may cause our stock price to decline.**

Our certificate of incorporation or our bylaws could make it more difficult for a third party to acquire us, even if closing such a transaction would be beneficial to our stockholders. We are authorized to issue up to 10,000,000 shares of preferred stock. This preferred stock may be issued in one or more series, the terms of which may be determined at the time of issuance by our board of directors without further action by stockholders. The terms of any series of preferred stock may include voting rights (including the right to vote as a series on particular matters), preferences as to dividend, liquidation, conversion and redemption rights and sinking fund provisions. No preferred stock is currently outstanding. The issuance of any preferred stock could materially adversely affect the rights of the holders of our common stock, and therefore, reduce the value of our common stock. In particular, specific rights granted to future holders of preferred stock could be used to restrict our ability to merge with, or sell our assets to, a third party and thereby preserve control by the present management.

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There are no cumulative voting rights provided for in our bylaws or certificate of incorporation. Our certificate of incorporation and bylaws also contain provisions that could have the effect of discouraging potential acquisition proposals or making a tender offer or delaying or preventing a change in control, including changes a stockholder might consider favorable. In particular, the certificate of incorporation and bylaws, as applicable, among other things:

provide the board of directors with the ability to alter the bylaws without stockholder approval;

provide for an advance notice procedure with regard to the nomination of candidates for election as directors and with regard to business to be brought before a meeting of stockholders; and

provide that vacancies on the board of directors may be filled by a majority of directors in office, although less than a quorum.

We have also adopted a stockholder rights plan pursuant to which each share of common stock also has a right attached to it. The rights are not exercisable except upon the occurrence of certain takeover-related events – most importantly, the acquisition by a third party (the Acquiring Person) of more than 30% of our outstanding voting shares if the Acquiring Person has not concurrently made a tender offer to acquire all outstanding shares of common stock. Once triggered, the rights entitle the stockholders, other than the Acquiring Person, to purchase additional shares of common stock at a 50% discount to their fair market value. The effect of triggering the rights is to expose the Acquiring Person to severe dilution of its ownership interest, as the shares of common stock of our company (or any surviving corporation) are offered to all of the stockholders other than the Acquiring Person at a steep discount to their market value.

Such provisions may have the effect of discouraging a third-party from acquiring Spark Networks, Inc. even if doing so would be beneficial to its stockholders. These provisions are expected to discourage certain types of coercive takeover practices and inadequate takeover bids and to encourage persons seeking to acquire control of Spark Networks, Inc. to first negotiate with its Board. These provisions of Delaware law also may discourage, delay or prevent someone from acquiring or merging with us, which may cause the market price of our common stock to decline.

### **ITEM 1B. UNRESOLVED STAFF COMMENTS**

None.

### **ITEM 2. PROPERTIES**

We do not own any real property that is materially important to our business. Our headquarters is currently located in Beverly Hills, California, where we occupy approximately 16,000 square feet of office space, housing our technology department and most of our corporate and administrative personnel. Our current lease for this space runs from August 1, 2011 through July 31, 2013 with monthly base rent starting at \$42,193 for the first year with 4 months of 50% abated rate during the first year of the term, and increasing to \$43,459 for the second year with 8 months of 50% abated rate during the second year of the term. In anticipation of the end of our lease in Beverly Hills, we have entered into a new 5-year lease for approximately 16,000 square feet with monthly basic rent ranging from approximately \$43,117 to \$51,427 and six months of rent abatement. We will relocate our corporate, administrative, technology and development personnel to the new office space prior to the expiration of the Beverly Hills lease. We also lease office space in Utah and Israel and datacenter space in California and Utah. We believe that our facilities are adequate for our current needs and suitable additional or substitute space will be available in the future to replace our existing facilities, if necessary, or accommodate expansion of our operations.

### **ITEM 3. LEGAL PROCEEDINGS**

*ISYSTEMS v. Spark Networks, Inc. et al.*

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On July 11, 2008, ISYSTEMS initiated a lawsuit against Spark Networks, Inc. and Spark Networks Limited (collectively, Spark Networks ) and other parties in the United States District Court, Northern District of Texas, Dallas Division. The lawsuit was filed in response to an arbitration award ordering the transfer of the domain name, JDATE.NET, to Spark Networks Limited from ISYSTEMS. Spark Networks was apprised of the lawsuit after ISYSTEMS unsuccessfully attempted to utilize the filing of the lawsuit to prevent the domain transfer to Spark Networks Limited. On December 1, 2008, Spark Networks filed a Motion to Dismiss the Complaint, or, Alternatively, for Summary Judgment. On September 10, 2009, the Court granted Spark Networks motion and dismissed the case with prejudice. On September 22, 2009, ISYSTEMS filed a motion to vacate the order dismissing the action and requesting leave to amend its complaint. On October 26, 2009, the Court granted ISYSTEMS motion and ISYSTEMS filed its Amended Complaint on November 25, 2009. On January 19, 2010, Spark Networks filed a Motion to Dismiss the Amended Complaint, or Alternatively, for Summary Judgment. The Court granted Spark Networks Motion to Dismiss on June 28, 2010 and entered a judgment in favor of Spark Networks. On July 25, 2010, ISYSTEMS filed a motion to vacate the order granting the motion to dismiss, which was denied by the Court on

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August 11, 2010. On September 10, 2010, ISYSTEMS filed a notice of appeal of the district court's order and judgment to the United States Court of Appeals for the Fifth Circuit. On June 13, 2011, the United States Court of Appeals for the Fifth Circuit issued its opinion affirming the District Court's judgment. On June 29, 2011, ISYSTEMS filed a Petition for Rehearing with the United States Court of Appeals for the Fifth Circuit, which was granted. Oral argument was held on December 8, 2011. Per the Fifth Circuit's request, the parties submitted supplemental briefs on December 16, 2011. On March 21, 2012, the Fifth Circuit issued its opinion affirming the District Court's dismissal of certain claims and reversing the dismissal of certain other claims. On April 19, 2012, the matter was remanded back to the District Court. On September 4, 2012, Spark Networks filed its Answer to the Complaint. By written order dated August 30, 2012, the Court set the action for trial on February 24, 2014.

*B.E. Technology, L.L.C. v. Spark Networks, Inc.*

On September 22, 2012, B.E. Technology, L.L.C. commenced a lawsuit against Spark Networks, Inc. in the Western District of Tennessee, B.E. Technology, L.L.C. v. Spark Networks, Inc., Civil Action No. 2:12-cv-02832-cgc, for alleged infringement of U.S. Patent No. 6,628,314. The patent is entitled "Computer Interface Method And Apparatus With Targeted Advertising." The Complaint alleges that Spark Networks has infringed at least claim 11 of the '314 patent by using a method of providing demographically targeted advertising, and seeks damages and an injunction. On December 31, 2012, Spark filed an Answer to the Complaint denying that the '314 patent was infringed by Spark and alleging, among other things, that the patent was invalid. On January 7, 2013, B.E. Technology served its Initial Infringement Contentions asserting that Spark had infringed claims 11, 12, 13, 15, 18, 19 and 20. The Company has made a motion to transfer the case to California.

*Kirby, et al. v. Spark Networks USA, LLC*

On October 16, 2012, Kristina Kirby, Christopher Wagner and Jamie Carper (collectively referred to as "Plaintiffs"), on behalf of themselves and all other similarly situated, filed a putative class action Complaint in the Superior Court for the State of California, County of Los Angeles (Case No. BC493892) alleging claims against Spark Networks USA, LLC for violations of California Business & Professions Code section 17529.5. Plaintiffs allege that certain e-mail communications advertising Web sites of Spark Networks USA, LLC and received by Plaintiffs violate a California statute prohibiting false and deceptive e-mail communications (namely, California Business & Professions Code section 17529.5). Plaintiffs generally allege that they seek damages in excess of \$25,000.

We intend to defend vigorously against each of the lawsuits. However, no assurance can be given that these matters will be resolved in our favor and, depending on the outcome of these lawsuits, we may choose to alter our business practices.

We have additional existing legal claims and may encounter future legal claims in the normal course of business. In our opinion, the resolutions of the existing legal claims are not expected to have a material impact on our financial position or results of operations. We believe we have accrued appropriate amounts where necessary in connection with the above litigation.

**ITEM 4. MINE SAFETY DISCLOSURES**  
**Not Applicable.**

**Table of Contents****PART II.****ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED SHAREHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES****Market Information**

Spark Networks, Inc.'s common stock is traded on the NYSE MKT under the trading symbol LOV. The following table summarizes the high and low closing sales prices of our common stock as reported by the NYSE MKT.

	High	Low
<b>Year ended December 31, 2011</b>		
First Quarter	\$ 3.33	\$ 3.01
Second Quarter	\$ 3.33	\$ 3.11
Third Quarter	\$ 3.74	\$ 3.00
Fourth Quarter	\$ 3.83	\$ 3.00

	High	Low
<b>Year ended December 31, 2012</b>		
First Quarter	\$ 4.74	\$ 3.62
Second Quarter	\$ 5.73	\$ 4.24
Third Quarter	\$ 6.81	\$ 5.02
Fourth Quarter	\$ 7.90	\$ 5.97

 **Holders**

As of March 8, 2013 there were 43 holders of record of our common stock.

 **Dividends**

We have not declared or paid any cash dividends on our common stock. We presently intend to retain our future earnings, if any, to fund the development and growth of our business and, therefore, do not have plans to pay any cash dividends in the near future.

Pursuant to the Company's credit agreement, as further described in Management Discussion and Analysis of Financial Condition and Results of Operations, the Company is permitted to repurchase or redeem equity interests or issue dividends of up to \$4.5 million during the term of the credit agreement.

 **Securities Authorized for Issuance Under Equity Compensation Plans**

Our equity compensation plan information is provided as set forth in Part III, Item 11 herein.

 **Unregistered Sales of Equity Securities**

During the year ended December 31, 2012, we did not issue unregistered securities.

 **Purchases of Equity Securities**

We did not purchase any shares in the year ended December 31, 2012.

**ITEM 6. SELECTED FINANCIAL DATA**

Not applicable for a smaller reporting company



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**ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS.**

*The following discussion of our financial condition and results of operations should be read in conjunction with our audited consolidated financial statements and the related notes that are included in this report.*

*Some of the statements contained in this Management's Discussion and Analysis of Financial Condition and Results of Operations and elsewhere in this report are forward-looking statements that involve substantial risks and uncertainties. All statements other than historical facts contained in this report, including statements regarding our future financial position, business strategy and plans and objectives of management for future operations, are forward-looking statements. In some cases, you can identify forward-looking statements by terminology such as believes, expects, anticipates, intends, estimates, may, will, continue, should, plan, predict, potential and other similar expressions. We have based these forward-looking statements on our current expectations and projections about future events and financial trends that we believe may affect our financial condition, results of operations, business strategy and financial needs. Our actual results could differ materially from those anticipated in these forward-looking statements, which are subject to a number of risks, uncertainties and assumptions described in the Risk Factors section and elsewhere in this report.*

**General**

The common stock of Spark Networks, Inc., a Delaware corporation, is traded on the NYSE MKT. On December 31, 2010, Spark Networks Limited ( SNUK ) distributed its shareholdings in each of HurryDate, LLC; MingleMatch, Inc.; Kizmeet, Inc.; SN Holdco, LLC; SN Events, Inc.; Reseaux Spark Canada Ltd. and Spark SocialNet, Inc. by transferring its shares in those companies to Spark Networks, Inc. Spark Networks, Inc. subsequently transferred all of its shares in the same companies to LOV USA, LLC, a newly formed and wholly owned subsidiary of Spark Networks, Inc. SNUK continues to hold all of the shares of Spark Networks (Israel) Limited, VAP AG and JDate Limited. In addition, SNUK now holds all of the shares of Spark Networks USA, LLC, a newly formed subsidiary into which SNUK has transferred all of its United States based assets.

Membership to the Company's online services, which includes the posting of a personal profile and photos, and access to its database of profiles, is free. The Company typically charges a subscription fee for varying subscription lengths (typically, one, three, six and twelve months) to members, allowing them to initiate communication with other members and subscribers using the Company's onsite communication tools, including anonymous email, Instant Messenger, chat rooms and message boards. For most of the Company's services, two-way communications through the Company's email platform can only take place between paying subscribers.

For the year ended December 31, 2012, we had 259,244 average paying subscribers, representing an increase of 32.0% from the year ended December 31, 2011. Paying subscribers are defined as individuals who have paid a monthly fee for access to communication and Web site features beyond those provided to our non-paying members. Average paying subscribers for each month are calculated as the sum of the paying subscribers at the beginning and end of the month, divided by two. Average paying subscribers for periods longer than one month are calculated as the sum of the average paying subscribers for each month, divided by the number of months in such period.

Our key Web sites include ChristianMingle.com, which primarily targets Christian singles in the United States and JDate.com, which primarily targets Jewish singles in the United States. Our subscription fees have traditionally been charged on a monthly basis, with discounts for longer-term subscriptions.

We have grown both internally and through acquisitions of entities, and selected assets of entities, offering online personals services and related businesses. Through our business acquisitions, we have expanded into new markets, leveraged and enhanced our existing brands to improve our position within new markets, and gained valuable intellectual property.

Our ability to compete effectively will depend on the timely introduction and performance of our future Web sites, services and features, the ability to address the needs of our members and paying subscribers and the ability to respond to Web sites, services and features introduced by competitors. To address this challenge, we have invested and will continue to invest in existing personnel resources, namely application developers and systems engineers, in order to enhance our existing services and introduce new services, which may include new Web sites as well as new features and functions designed to increase the probability of communication among our members and paying subscribers and to enhance their online personals experiences. We believe we have sufficient cash resources on hand to accomplish the enhancements currently contemplated.

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### **Critical Accounting Policies, Estimates and Assumptions**

Our discussion and analysis of our financial condition and results of operations is based upon our consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States. The preparation of these financial statements requires us to make certain estimates and judgments that affect the reported amounts of assets, liabilities, revenue and expenses, and related disclosure of contingent assets and liabilities. On an on-going basis, we evaluate our estimates, including those related to revenue recognition, cost of revenue, prepaid advertising, Web site and software development costs, goodwill, intangible and other long-lived assets, accounting for business combinations, legal contingencies, income taxes and stock-based compensation. We base our estimates on historical experience and on various other assumptions that we believe are reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. Actual results may differ from these estimates under different assumptions or conditions.

Management has discussed the development and selection of our critical accounting policies, estimates and assumptions with our board of directors and the board has reviewed these disclosures. Past estimates have been in line with actual results.

We believe the following critical accounting policies reflect the more significant judgments and estimates we used in the preparation of our consolidated financial statements:

#### ***Revenue Recognition and Deferred Revenue***

Substantially all of our revenue is derived from subscription fees. Revenue is presented net of credits and credit card chargebacks. We recognize revenue in accordance with accounting principles generally accepted in the United States. Revenue recognition occurs ratably over the subscription period, beginning when there is persuasive evidence of an arrangement, delivery has occurred (access has been granted), the fees are fixed or determinable, and collection is reasonably assured. Paying subscribers primarily pay in advance using a credit card and, subject to certain conditions identified in our terms and conditions, all purchases are final and nonrefundable. Subscription fees collected in advance are deferred and recognized as revenue, using the straight-line method, over the term of the subscription. We reserve for potential credit card chargebacks based on our historical chargeback experience.

We also earn a small amount of revenue from advertising sales and offline events. We record advertising revenue as it is delivered and included it in the total revenue of each segment that generates advertising sales. Revenue and the related expenses associated with offline events are recognized at the conclusion of each event.

#### ***Cost of Revenue***

Cost of revenue consists primarily of direct marketing costs, compensation and other employee-related costs (including stock-based compensation) for personnel dedicated to maintaining our data centers, data center expenses and credit card fees. We incur substantial advertising expenses in order to generate traffic to our Web sites. These advertising costs consist of television and online advertising, including affiliate and co-brand arrangements, and are directly attributable to the revenue we receive from our subscribers. We have entered into numerous affiliate arrangements, under which our affiliates advertise or promote our Web site, and earn a fee whenever visitors click through the affiliate's advertisement to one of our Web sites and register or subscribe, on our Web site. Some of our affiliates may also be affiliates for our competitors. Under our co-branded arrangements, our co-brand partners may operate their own separate Web sites where visitors can register and subscribe to our Web sites. Affiliate deals, co-brand deals and online advertising arrangements may fall in the categories of CPS, CPA, CPC, or CPM, as discussed below.

Our advertising expenses are recognized based on the terms of each individual contract. The majority of our advertising expenses are based on five pricing models:

Cost per subscription (CPS) where we pay an online advertising provider a fee based upon the number of new paying subscribers it generates;

Cost per acquisition (CPA) where we pay an online advertising provider a fee based on the number of new member registrations it generates;

Cost per click (CPC) where we pay an online advertising provider a fee based on the number of clicks to our Web sites it generates;

Cost per thousand for banner advertising (CPM) where we pay an online advertising provider a fee based on the number of times it displays our advertisements; and

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Offline where we pay television and radio stations for advertising placement on a cost per spot basis, print advertisers on a cost per page basis and out-of-home advertisers on a fixed placement basis.

We estimate, in certain circumstances, the total clicks or impressions delivered by our vendors in order to determine amounts due under these contracts.

### ***Prepaid Advertising Expenses***

In certain circumstances, we pay in advance for online and offline advertising, and expense the prepaid amounts as cost of revenue over the contract periods as the vendor delivers on its commitment. We evaluate the realization of prepaid amounts at each reporting period and expense prepaid amounts if the vendor is unable to deliver on its commitment and is not willing or able to repay the undelivered prepaid amounts.

### ***Web Site and Software Development Costs***

We capitalize costs related to developing or obtaining internal-use software. Capitalization of costs begins after the preliminary project stage has been completed. Product development costs are expensed as incurred or capitalized into property and equipment. Costs incurred in the preliminary project and post-implementation stages of an internal use software project are expensed as incurred and certain costs incurred in the application development stage of a project are capitalized.

We expense costs related to the planning and post implementation phases of Web site development efforts. Direct costs incurred in the development phase are capitalized. Costs associated with minor enhancements and maintenance for a Web site are included in expenses in the accompanying consolidated statements of operations.

### ***Valuation of Goodwill, Identified Intangibles and Other Long-lived Assets***

We test goodwill and indefinite-lived intangible assets for impairment at least annually, or more frequently when circumstances indicate that the carrying value may not be recoverable and test property, plant and equipment and other intangible assets for impairment whenever changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Factors we consider important and which could trigger an impairment review include the following:

a significant decline in actual projected revenue;

a significant decline in the market value of our common stock;

a significant decline in performance of certain acquired companies relative to our original projections;

an excess of our net book value over our market value;

a significant decline in our operating results relative to our operating forecasts;

a significant change in the manner of our use of acquired assets or the strategy for our overall business;

a significant decrease in the fair value of an asset;

a shift in technology demands and development; and

a significant turnover in key management or other personnel.

When we determine that the carrying value of goodwill, other intangible assets and other long-lived assets may not be recoverable based upon the existence of one or more of the above indicators of impairment, we measure any impairment based on a projected discounted cash flow method using a discount rate determined by our management to be commensurate with the risk inherent in our current business model. In the case of the other intangible assets and other long-lived assets, this measurement is only performed if the projected undiscounted cash flows for the asset are less than its carrying value.

In 2012, the Company performed its annual impairment analysis. Utilizing the new qualitative assessment option, we assessed qualitative factors to determine whether it was necessary to perform the two-step test (quantitative assessment). The analysis concluded that it is more-likely-than-not that the fair values of the Jewish Networks, Christian Networks, and Other Networks are higher than their carrying values. At the conclusion of the analysis, it was determined that impairment was not warranted.

In 2011, the Company performed its annual impairment analysis utilizing a quantitative assessment. We estimated the fair value of the reporting units based on the market approach and income approach. The income approach relies upon discounted future cash flows which are derived from various assumptions including: projected cash flows, discount rates, projected long-term growth rates and terminal values. The Company used a discount rate which reflects the risks and uncertainty related to each reporting unit. The analysis concluded that the estimated reporting units fair values were higher than their carrying values. At the conclusion of the analysis, it was determined that impairment was not warranted.

As of December 31, 2012, Jewish Networks, Christian Networks and Other Networks carried goodwill balances of \$6.9 million, \$1.7 million and \$232,000, respectively.

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In 2011, we impaired approximately \$45,000 of capitalized software development costs when we determined that a Web-based product failed to perform to Company standards. In 2012, an impairment charge was not necessary.

In 2011, the Company determined that certain domain names and computer software acquired from prior period acquisitions had no value based upon the expected future cash flows generated from the businesses associated with these assets, resulting in impairment charges of approximately \$1.1 million. In 2012, an impairment charge was not necessary.

### ***Accounting for Business Combinations***

We acquired the stock or specific assets of a number of companies from 1999 through 2008 some of which were considered to be business acquisitions. Under the purchase method of accounting, the costs are allocated to the underlying net assets, based on their respective estimated fair values. The excess of the purchase price over the estimated fair values of the net assets acquired is recorded as goodwill.

The judgments made in determining the estimated fair value and expected useful life assigned to each class of assets and liabilities acquired can significantly impact net income. Different classes of assets will have varying useful lives. For example, the useful life of a member database, which is typically three years, is not the same as the useful life of a paying subscriber list, which is typically three months, or a domain name, which is indefinite. Consequently, to the extent a longer-lived asset is ascribed greater value under the purchase method than a shorter-lived asset, there may be less amortization recorded in a given period or no amortization for indefinite lived intangibles.

Determining the fair value of certain assets and liabilities acquired is subjective in nature and often involves the use of significant estimates and assumptions.

The value of our intangible and other long-lived assets, including goodwill, is exposed to future adverse changes if we experience declines in operating results or experience significant negative industry or economic trends or if future performance is below historical trends.

### ***Legal Contingencies***

We are currently involved in certain legal proceedings, as discussed in the notes to the financial statements and under Legal Proceedings. To the extent that a loss related to a contingency is reasonably estimable and probable, we accrue an estimate of that loss. Because of the uncertainties related to both the amount and range of loss on certain pending litigation, we may be unable to make a reasonable estimate of the liability that could result from an unfavorable outcome of such litigation. As additional information becomes available, we will assess the potential liability related to our pending litigation and make or, if necessary, revise our estimates. Such revisions in our estimates of the potential liability could materially impact our results of operations and financial position.

### ***Accounting for Income Taxes***

We account for income taxes using the asset and liability method, which requires the recognition of deferred tax assets and liabilities for the expected future tax consequences of temporary differences between the carrying amounts and tax bases of the assets and liabilities.

As of December 31, 2012, we have a valuation allowance against our U.S. and foreign deferred tax assets of approximately \$9.6 million. Companies are required to assess whether a valuation allowance should be recorded against their deferred tax assets ( DTAs ) based on the consideration of all available evidence, using a more likely than not realization standard. The four sources of taxable income that must be considered in determining whether DTAs will be realized are, (1) future reversals of existing taxable temporary differences (i.e. offset of gross deferred tax assets against gross deferred tax liabilities); (2) taxable income in prior carryback years, if carryback is permitted under the tax law; (3) tax planning strategies and (4) future taxable income exclusive of reversing temporary differences and carryforwards.

In assessing whether a valuation allowance is required, significant weight is to be given to evidence that can be objectively verified. We have evaluated our DTAs each reporting period, including an assessment of our cumulative income or loss over the prior three-year period, to determine if a valuation allowance was required. A significant negative factor in our assessment was the Company's three-year cumulative loss history as of December 31, 2012.

After a review of the four sources of taxable income described above and in view of our three-year cumulative loss, we were not able to conclude that it is more likely than not that our DTAs will be realized. As a result, we recorded an additional valuation allowance on our DTAs, with a corresponding charge to our income tax provision, of approximately \$8.9 million as of December 31, 2012.

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At December 31, 2012, we had gross net operating loss ( NOL ) carry-forwards for income tax purposes of approximately \$18.6 million and \$38.4 million available to reduce future federal and state taxable income, respectively, which expire beginning in the years 2025 for federal purposes and 2018 for state purposes. Under section 382 of the Internal Revenue Code, the utilization of the net operating loss carry-forwards can be limited based on changes in the percentage ownership of the Company.

The Company recognizes excess tax benefits associated with the exercise of stock options directly to stockholders' equity only when realized. Accordingly, deferred tax assets are not recognized for net operating losses resulting from excess tax benefits. As of December 31, 2012, deferred tax assets do not include approximately \$4.8 million of these excess tax benefits from employee stock option exercises that are a component of the Company's NOL carry forwards. Additional paid in capital will be increased up to an additional \$4.8 million if and when such excess tax benefits are realized. During 2012, approximately \$23,000 of net excess tax provision was realized.

We operate in multiple taxing jurisdictions, both within the United States and outside the United States. We have filed tax returns with positions that may be challenged by the tax authorities. These positions relate to, among others, transfer pricing,

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the deductibility of certain expenses, intercompany transactions as well as other matters. Although the outcome of tax audits is uncertain, we regularly assesses our tax position for such matters and, in management's opinion, adequate provisions for income taxes have been made for potential liabilities resulting from such matters. To the extent reserves are recorded, they will be utilized or reversed once the statute of limitations has expired and/or at the conclusion of the tax examination. We believe that the ultimate outcome of these matters will not have a material impact on our financial position or liquidity. We recognize the tax effects from an uncertain tax position in our financial statements, only if the position is more-likely-than-not of being sustained on audit, based on the technical merits of the position. Tax positions that meet the recognition threshold are reported at the largest amount that is more-likely-than-not to be realized.

### ***Stock Based Compensation***

We adopted the Share-Based Payment guidance in 2005 using the modified prospective approach. Prior to our adoption of the guidance, we did not record tax benefits of deductions resulting from the exercise of stock options because of the uncertainty surrounding the timing of realizing the benefits of our deferred tax assets in future tax returns. The guidance requires the cash flows resulting from the tax benefits resulting from tax deductions in excess of the compensation cost recognized for those options (excess tax benefits) to be classified as financing cash flows. In 2012, the Company recognized cash outflows of approximately \$23,000 related to a tax provision from stock-based compensation. In 2011, the Company recognized cash inflows of approximately \$67,000 related to a tax benefit from stock-based compensation.

We calculate the fair value of stock options using the Black-Scholes option-pricing model. The determination of the fair value of stock-based awards at the grant date requires judgment in developing assumptions, which involve a number of variables. These variables include, but are not limited to, the expected stock price volatility over the term of the awards, the expected dividend yield and the expected stock option exercise behavior. Additionally, judgment is also required in estimating the number of stock-based awards that are expected to be forfeited. We used historical and empirical data to assess different forfeiture rates for three different groups of employees. We must reassess forfeiture rates when deemed necessary and we must calibrate actual forfeiture behavior to what has already been recorded.

Our computation of expected volatility is based on a combination of historical and market-based implied volatility. The volatility rate was derived by examining historical stock price behavior and assessing management's expectations of stock price behavior during the term of the option. The term of the options was derived based on the simplified method calculation. We are using the simplified method calculation, which is derived by averaging the vesting term with the contractual terms.

If any of the assumptions used in the Black-Scholes model change significantly, stock-based compensation expense may differ materially in the future from that recorded in the current period. We believe the accounting for stock-based compensation is a critical accounting policy because it requires the use of complex judgment in its application.

### ***Segment Reporting***

Segment reporting requires the use of the management approach in determining the reportable operating segments. The management approach considers the internal organization and reporting used by our chief operating decision maker for making operating decisions and assessing performance. The Company's financial reporting includes detailed data on four separate operating segments which were principally determined based on similarity of economic characteristics. During the first quarter of 2012, the Company's management modified the internal reporting of its operating segments to: (1) Jewish Networks, which consists of JDate.com, JDate.co.uk, JDate.fr, JDate.co.il, Cupid.co.il, and their respective co-branded Web sites; (2) Christian Networks, which now consists of ChristianMingle.com, ChristianMingle.co.uk, ChristianMingle.com.au, Believe.com, ChristianCards.net, DailyBibleVerse.com and Faith.com; (3) Other Networks, which consists of Spark.com and related other general market Web sites as well as other properties which are primarily composed of sites targeted towards various religious, ethnic, geographic and special interest groups; and (4) Offline & Other Businesses, which consists of revenue generated from offline activities and HurryDate events and subscriptions. The Company believes the new segments provide investors with greater transparency into the performance of the business. Prior period amounts presented in this Annual Report on Form 10-K have been reclassified to conform to the current period presentation.



**Table of Contents****Results of Operations**

The following is a more detailed discussion of our financial condition and results of operations for the periods presented.

The following table presents our historical operating results as a percentage of revenue for the periods indicated:

	2012	2011	2010
Revenue	100.0%	100.0%	100.0%
Costs and expenses:			
Cost of revenue	79.7	59.7	33.7
Sales and marketing	6.5	7.7	8.6
Customer service	4.1	4.1	3.9
Technical operations	2.2	2.8	3.0
Development	5.4	5.6	7.6
General and administrative	14.3	16.6	23.7
Depreciation	2.7	2.7	2.4
Amortization of intangible assets other than goodwill		0.8	1.0
Impairment of goodwill, long-lived assets and other assets		2.4	0.8
Total costs and expenses	114.9	102.4	84.7
Operating (loss) income	(14.9)	(2.4)	15.3
Interest expense (income) and other, net	(0.4)	0.3	(0.1)
(Loss) income before income taxes	(14.5)	(2.7)	15.4
Provision (benefit) for income taxes	9.8	0.6	6.3
Net (loss) income	(24.3)%	(3.3)%	9.1%

The following table describes certain selected information and Adjusted EBITDA <sup>(1)</sup> for the years ended December 31,

(in thousands)	2012	2011	2010
<b>Net (loss) income</b>	\$ (14,989)	\$ (1,611)	\$ 3,704
Interest expense	59	102	207
Income tax (benefit) provision	6,047	305	2,558
Depreciation	1,673	1,320	962
Impairments		1,145	308
Amortization of intangible assets	13	370	421
Non-cash currency translation adjustments	(124)	337	(269)
Stock-based compensation	813	906	1,510
Non-repetitive property possession	(151)	(247)	
<b>Adjusted EBITDA<sup>(1)</sup></b>	<b>\$ (6,659)</b>	<b>\$ 2,627</b>	<b>\$ 9,401</b>

- (1) The Company reports Adjusted EBITDA as a supplemental measure to generally accepted accounting principles ( GAAP ). This measure is one of the primary metrics by which we evaluate the performance of our businesses, budget, forecast and compensate management. We believe this measure provides management and investors with a consistent view, period to period, of the core earnings generated from on-going operations and excludes the impact of: (i) non-cash items such as stock-based compensation, asset impairments, non-cash

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currency translation adjustments related to an inter-company loan and (ii) one-time items that have not occurred in the past two years and are not expected to recur in the next two years. Adjusted EBITDA has inherent limitations in evaluating the performance of the Company, including, but not limited to the following:

Adjusted EBITDA does not reflect the cash capital expenditures during the measurement period,

Adjusted EBITDA does not reflect any changes in working capital requirements during the measurement period,

Adjusted EBITDA does not reflect the cash tax payments during the measurement period, and

Adjusted EBITDA may be calculated differently by other companies in our industry, thus limiting its value as a comparative measure.

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Adjusted EBITDA should not be construed as a substitute for net income (loss) (as determined in accordance with GAAP) for the purpose of analyzing our operating performance or financial position, as Adjusted EBITDA is not defined by GAAP.

**Key Metric Average Paying Subscribers**

We regularly review average paying subscribers as a key metric to evaluate the effectiveness of our operating strategies and monitor the financial performance of our business. Subscribers are defined as individuals for whom we collect a monthly fee for access to communication and Web site features beyond those provided to our non-paying members. Average paying subscribers for each month are calculated as the sum of the paying subscribers at the beginning and end of the month, divided by two. Average paying subscribers for periods longer than one month are calculated as the sum of the average paying subscribers for each month, divided by the number of months in such period.

Unaudited selected statistical information regarding average paying subscribers for our operating segments is shown in the table below:

	Year Ended December 31,		
	2012	2011	2010
<b>Average Paying Subscribers</b>			
Jewish Networks	85,292	89,429	90,452
Christian Networks	146,267	71,311	26,366
Other Networks	27,685	35,595	44,813
<b>Total Average Paying Subscribers</b>	<b>259,244</b>	<b>196,335</b>	<b>161,631</b>

Average paying subscribers for the Jewish Networks segment decreased 4.6% to 85,292 for the year ended December 31, 2012 compared to 89,429 in 2011, reflecting the 8.2% reduction in direct marketing investment. Average paying subscribers for the Christian Networks segment increased 105.1% to 146,267 for the year ended December 31, 2012 compared to 71,311 in 2011, reflecting increased direct marketing investment within this segment. Average paying subscribers for the Other Networks segment decreased 22.2% to 27,685 for the year ended December 31, 2012 compared to 35,595 in 2011. This decrease can be primarily attributed to a reduction in inefficient marketing spend in prior and current periods.

Average paying subscribers for the Jewish Networks segment decreased 1.1% to 89,429 for the year ended December 31, 2011 compared to 90,452 in 2010. Average paying subscribers for the Christian Networks segment increased 170.5% to 71,311 for the year ended December 31, 2011 compared to 26,366 in 2010, reflecting increased direct marketing investment within this segment. Average paying subscribers for the Other Networks segment decreased 20.6% to 35,595 for the year ended December 31, 2011 compared to 44,813 in 2010. This decrease can be primarily attributed to a reduction in inefficient marketing spend in prior and current periods.

We expect the cost of customer acquisition for the Jewish Networks to remain below the acquisition cost for our other segments due to the brand recognition of JDate. Our Christian Networks and Other Networks segments operate in a much more competitive environment, and therefore we generally must spend more on marketing to attract new subscribers. We are constantly striving to improve our Web sites to retain our existing subscribers.

**Segment Reclassification**

During the first quarter of 2012, the Company's management modified the internal reporting of its operating segments to: (1) Jewish Networks, which consists of JDate.com, JDate.co.uk, JDate.fr, JDate.co.il, Cupid.co.il, and their respective co-branded Web sites; (2) Christian Networks, which now consists of ChristianMingle.com, ChristianMingle.co.uk, ChristianMingle.com.au, Believe.com, ChristianCards.net, DailyBibleVerse.com and Faith.com; (3) Other Networks, which consists of Spark.com and related other general market Web sites as well as other properties which are primarily composed of sites targeted towards various religious, ethnic, geographic and special interest groups; and (4) Offline & Other Businesses, which consists of revenue generated from offline activities and HurryDate events and subscriptions. The Company believes the new segments provide investors with greater transparency into the performance of the business.

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### **Year Ended December 31, 2012 Compared to Year Ended December 31, 2011**

#### **Revenue**

Substantially all of our revenue is derived from subscription fees. Approximately 4.8% and 5.0% of our revenue for the years ended December 31, 2012 and 2011, respectively, were generated through offline social and travel events, and advertising revenue. Revenue is presented net of credits and credit card chargebacks. Our subscriptions are offered in durations of varying length (typically, one, three, six and twelve months). Plans with durations longer than one month are available at discounted monthly rates. Following their initial terms, most subscriptions renew automatically until subscribers terminate them.

Revenue for the year ended December 31, 2012 increased 27.3% to \$61.7 million from \$48.5 million in 2011. The revenue increase can be primarily attributed to a 100.6% increase in Christian Networks revenue.

Revenue for the Jewish Networks segment decreased 3.8% to \$26.0 million for the year ended December 31, 2012, compared to \$27.1 million in 2011. The lower Jewish Networks revenue reflects a 4.6% decrease in average paying subscribers. An 8.2% decrease in Jewish Networks direct marketing investment contributed to the lower average paying subscriber count. Revenue for our Christian Networks segment increased 100.6% to \$31.6 million for the year ended December 31, 2012, compared to \$15.7 million in 2011. The higher Christian Networks revenue reflects a 105.1% increase in average paying subscribers, fueled by a 113.9% increase in direct marketing investment. Revenue for the Other Networks segment decreased 23.6% to \$3.8 million for the year ended December 31, 2012, compared to \$4.9 million in 2011. The decrease in Other Networks revenue is driven by a 22.2% decrease in average paying subscribers, reflecting the elimination of inefficient online marketing expenses in 2012.

#### **Costs and Expenses**

Costs and expenses consist primarily of cost of revenue, sales and marketing, customer service, technical operations, development and general and administrative expenses. Costs and expenses increased 42.9% to \$70.9 million for the year ended December 31, 2012, compared to \$49.6 million in 2011. The increase is primarily attributable to a \$20.3 million increase in cost of revenue.

*Cost of Revenue.* Cost of revenue consists primarily of direct marketing costs, compensation and other employee-related costs (including stock-based compensation) for personnel dedicated to maintaining our data centers, data center expenses and credit card fees. Cost of revenue increased 70.0% to \$49.2 million for the year ended December 31, 2012, compared to \$29.0 million in 2011. This increase can be primarily attributed to higher Christian Networks direct marketing expenses. Direct marketing expenses for the Christian Networks segment increased 113.9% to \$41.4 million for the year ended December 31, 2012, compared to \$19.4 million in 2011. The higher direct marketing expense reflects management's focus on increasing market share and cultivating greater brand awareness for ChristianMingle through a combination of online and offline marketing channels.

*Sales and Marketing.* Sales and marketing expenses consist primarily of salaries for our sales and marketing personnel. Sales and marketing expenses increased 7.3% to \$4.0 million for the year ended December 31, 2012, compared to \$3.7 million in 2011. The increase can be primarily attributed to growth in compensation expense and public relations consulting fees. The Company increased its marketing team headcount in 2012, which led to higher compensation expense. Additionally, the Company expanded its public relations efforts which resulted in higher consulting fees.

*Customer Service.* Customer service expenses consist primarily of personnel costs associated with our customer service centers. The members of our customer service team primarily respond to billing questions, detect fraudulent activity and eliminate suspected fraudulent activity, as well as address site usage and dating questions from our members. Customer service expenses increased 28.0% to \$2.5 million for the year ended December 31, 2012, compared to \$2.0 million in 2011. The expense increase is primarily attributed to higher compensation costs, reflecting increased support for our growing Christian Networks segment.

*Technical Operations.* Technical operations expenses consist primarily of the personnel and systems necessary to support our corporate technology requirements. Technical operations expenses remained flat between fiscal years 2012 and 2011.

*Development.* Development expenses consist primarily of costs incurred in the development, enhancement and maintenance of our Web sites and services. Development expenses increased 23.5% to \$3.3 million for the year ended December 31, 2012, compared to \$2.7 million in 2011. The increase can be attributed to higher compensation expense, consulting fees, placement fees and software licensing fees. The Company increased its development team headcount in 2012, which led to higher compensation and placement fees expense. The higher consulting and software licensing fees reflect management's focus on introducing new products to market.



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*General and Administrative.* General and administrative expenses consist primarily of corporate personnel-related costs, professional fees, occupancy and other overhead costs. General and administrative expenses increased 8.9% to \$8.8 million for the year ended December 31, 2012, compared to \$8.1 million in 2011. The increase can be primarily attributed to higher legal expenses. In 2011, the Company received net proceeds from the settlement of a patent infringement lawsuit which reduced legal expenses.

*Depreciation.* Depreciation expenses consist primarily of depreciation of capitalized software costs, computer hardware and other fixed assets. Depreciation expense increased by 26.7% to \$1.7 million for the year ended December 31, 2012, compared to \$1.3 million in 2011. Higher capitalized software which started in prior years accounted for the increase in depreciation expenses.

*Amortization of Intangible Assets.* Amortization expenses consist primarily of amortization of intangible assets related to acquisitions, primarily LDSSingles and HurryDate. Amortization expense decreased 96.5% to \$13,000 for the year ended December 31, 2012, compared to \$370,000 in 2011. The decrease reflects the full amortization of the Company's intangible assets.

*Impairment of Long-lived Assets.* Impairment of long-lived assets primarily represents the write-down of investments in businesses and computer software. There was no long-lived assets impairment expense for the year ended December 31, 2012, compared to \$1.1 million in 2011. In 2011, the Company determined that certain domain names and computer software acquired from prior period acquisitions had no value.

*Interest Expense (income) and Other, Net.* Interest expense (income) and other consist primarily of interest income associated with short-term investments and cash deposits in interest bearing accounts, income or expense related to currency fluctuations and interest expense associated with borrowings from our revolving credit facility. Interest expense (income) and other reflected \$238,000 of income for the year ended December 31, 2012, compared to \$162,000 of expense in 2011. The change is primarily due to non-cash foreign exchange rate fluctuations related to the intercompany loan with our Israel subsidiary.

*Provision for Income Taxes.* Provision for Income taxes for the year ended December 31, 2012 was \$6.0 million, compared to \$306,000 for the year ended December 31, 2011. The 2012 provision for income taxes consists primarily of a valuation allowance recorded against our deferred tax assets, for which we were not able to conclude that it is more likely than not it would be realized. As a result of the valuation allowance position, no tax benefit was recorded on the losses incurred for the year. The 2011 provision for income taxes relates primarily to an increase in the deferred tax liability associated with our Israeli subsidiary's tax deductible goodwill amortization and partially offset by a net tax benefit recorded on losses incurred in the US.

*Net (loss) Income and Net (loss) Income Per Share.* Net loss was \$15.0 million, or \$0.72 per share, for the year ended December 31, 2012, compared to a net loss of \$1.6 million or \$0.08 per share in 2011. The net loss in 2012 was primarily due to increases in Christian Networks direct marketing investments and an \$8.9 million valuation allowance against deferred tax assets.

**Year Ended December 31, 2011 Compared to Year Ended December 31, 2010****Revenue**

Substantially all of our revenue is derived from subscription fees. Approximately 5.0% and 5.2% of our revenue for the years ended December 31, 2011 and 2010, respectively, were generated through offline social and travel events, and advertising revenue. Revenue is presented net of credits and credit card chargebacks. Our subscriptions are offered in durations of varying length (typically, one, three, six and twelve months). Plans with durations longer than one month are available at discounted monthly rates. Following their initial terms, most subscriptions renew automatically until subscribers terminate them.

Revenue for the year ended December 31, 2011 increased 18.7% to \$48.5 million from \$40.9 million in 2010. The revenue increase can be primarily attributed to a 170.1% increase in Christian Networks revenue.

Revenue for the Jewish Networks segment decreased 1.4% to \$27.1 million for the year ended December 31, 2011, compared to \$27.4 million in 2010. The lower Jewish Networks revenue reflects a 0.5% decrease in average revenue per user ( ARPU ), and a 1.1% decrease in average paying subscribers. The lower ARPU reflects a shift in the mix of plans purchased by our subscribers and their related prices. Revenue for our Christian Networks segment increased 170.1% to \$15.7 million for the year ended December 31, 2011, compared to \$5.8 million in 2010. The higher Christian Networks revenue reflects a 170.5% increase in average paying subscribers, driven by a 290.8% increase in direct marketing investments. Revenue for the Other Networks segment decreased 25.6% to \$4.9 million for the year ended December 31, 2011, compared to \$6.6 million in 2010. The decrease in Other Networks revenue is due to a 20.6% decrease in average paying subscribers, reflecting the elimination of inefficient online and offline marketing expenses. Revenue from our Offline and Other Businesses segment decreased 19.9% to \$772,000 for the year ended December 31, 2011 compared to \$1.0 million in 2010. The decrease in revenue is attributable to fewer hosted

events in 2011.

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**Table of Contents****Costs and Expenses**

Costs and expenses consist primarily of cost of revenue, sales and marketing, customer service, technical operations, development and general and administrative expenses. Costs and expenses increased 43.3% to \$49.6 million for the year ended December 31, 2011, compared to \$34.6 million in 2010. The increase is primarily attributable to a \$15.2 million increase in cost of revenue.

*Cost of Revenue.* Cost of revenue consists primarily of direct marketing costs, compensation and other employee-related costs (including stock-based compensation) for personnel dedicated to maintaining our data centers, data center expenses and credit card fees. Cost of revenue increased 110.6% to \$29.0 million for the year ended December 31, 2011, compared to \$13.7 million in 2010. This increase can be primarily attributed to higher Christian Networks direct marketing expenses. Direct marketing expenses for the Christian Networks segment increased 290.8% to \$19.4 million for the year ended December 31, 2011, compared to \$5.0 million in 2010. The higher direct marketing expense reflects management's focus on increasing market share and cultivating greater brand awareness for ChristianMingle through a combination of online and offline marketing channels.

*Sales and Marketing.* Sales and marketing expenses consist primarily of salaries for our sales and marketing personnel. Sales and marketing expenses increased 6.5% to \$3.7 million for the year ended December 31, 2011, compared to \$3.5 million in 2010. The increase can be primarily attributed to growth in compensation expense and consulting fees. The Company increased its marketing team headcount in 2011, which led to higher compensation expense.

*Customer Service.* Customer service expenses consist primarily of personnel costs associated with our customer service centers. The members of our customer service team primarily respond to billing questions, detect fraudulent activity and eliminate suspected fraudulent activity, as well as address site usage and dating questions from our members. Customer service expenses increased 23.7% to \$2.0 million for the year ended December 31, 2011, compared to \$1.6 million in 2010. The expense increase is primarily attributed to higher compensation costs, reflecting increased support for our growing Christian Networks segment.

*Technical Operations.* Technical operations expenses consist primarily of the personnel and systems necessary to support our corporate technology requirements. Technical operations expenses increased 11.0% to \$1.4 million for the year ended December 31, 2011, compared to \$1.2 million in 2010. The increase reflects higher compensation expense associated with additional personnel.

*Development.* Development expenses consist primarily of costs incurred in the development, enhancement and maintenance of our Web sites and services. Development expenses decreased by 12.4% to \$2.7 million for the year ended December 31, 2011, compared to \$3.1 million in 2010. The decreased costs reflect lower salary expense due to personnel changes and higher capitalized salaries associated with software development.

*General and Administrative.* General and administrative expenses consist primarily of corporate personnel-related costs, professional fees, occupancy and other overhead costs. General and administrative expenses decreased 17.5% to \$8.1 million for the year ended December 31, 2011, compared to \$9.8 million in 2010. In 2010, the Company incurred approximately \$1.0 million in non-recurring charges associated with our Special Committee process, litigation related to the Special Committee process and the transfer of certain assets out of our United Kingdom entity into two United States entities.

*Depreciation.* Depreciation expenses consist primarily of depreciation of capitalized software costs, computer hardware and other fixed assets. Depreciation expense increased by 37.2% to \$1.3 million for the year ended December 31, 2011, compared to \$962,000 in 2010. Higher capitalized software which started in 2010 accounted for the increase in depreciation expenses.

*Amortization of Intangible Assets.* Amortization expenses consist primarily of amortization of intangible assets related to acquisitions, primarily LDSSingles and HurryDate. Amortization expense decreased 12.1% to \$370,000 for the year ended December 31, 2011, compared to \$421,000 in 2010. The decrease reflects the full amortization of MingleMatch and LDSSingles assets.

*Impairment of Long-lived Assets.* Impairment of long-lived assets primarily represents the write-down of investments in businesses and computer software. Long-lived assets impairment expense was \$1.1 million for the year ended December 31, 2011, compared to \$308,000 in 2010. In 2011, the Company determined that certain domain names and computer software acquired from prior period acquisitions had no value.

*Interest Expense (income) and Other, Net.* Interest expense (income) and other consist primarily of interest income associated with short-term investments and cash deposits in interest bearing accounts, income or expense related to currency fluctuations and interest expense associated with borrowings from our revolving credit facility. Interest expense (income) and other reflected a \$162,000 expense for the year ended December 31, 2011, compared to income of \$54,000 in 2010. The change is primarily due to non-cash foreign exchange rate fluctuations related



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to the intercompany loan with our Israel subsidiary, offset by a \$247,000 gain recorded for assets received from a legal judgment.

*Provision for Income Taxes.* Provision for Income taxes for the year ended December 31, 2011 was \$306,000 compared to provision for income taxes of \$2.6 million for the year ended December 31, 2010. The 2011 provision for income taxes relates primarily to an increase in the deferred tax liability associated with our Israeli subsidiary's tax deductible goodwill amortization and partially offset by a net tax benefit recorded on losses incurred in the US. The 2010 provision for income taxes consists primarily of US federal and state income tax expense.

*Net (loss) Income and Net (loss) Income Per Share.* Net loss was \$1.6 million, or \$0.08 per share, for the year ended December 31, 2011, compared to net income of \$3.7 million or \$0.18 per share in 2010. The net loss in 2011 was primarily due to increases in Jewish and Christian Networks direct marketing investments.

**Table of Contents****Quarterly Results of Operations**

You should read the following tables presenting our quarterly results of operations in conjunction with the consolidated financial statements and related notes contained elsewhere in this report. We have prepared the unaudited information on substantially the same basis as our audited consolidated financial statements which, in the opinion of management, includes all adjustments, consisting only of normal recurring adjustments, except as otherwise indicated, necessary for the presentation of the results of operations for such periods. You should also keep in mind, as you read the following tables, that our operating results for any quarter are not necessarily indicative of results for any future quarters or for a full year.

(in thousands)	Dec. 31, 2012	Sept. 30, 2012	June 30, 2012	Three Months Ended			Sept. 30, 2011	June 30, 2011	March 31, 2011
	2012	2012	2012	March 31, 2012	Dec. 31, 2011	Sept. 30, 2011	June 30, 2011	March 31, 2011	
<b>Consolidated Statement of Operations Data:</b>									
Revenue	\$ 16,271	\$ 15,871	\$ 15,046	\$ 14,555	\$ 12,861	\$ 12,677	\$ 11,995	\$ 10,960	
Cost of revenue	13,491	12,901	10,976	11,848	8,420	7,373	7,347	5,815	
Sales and marketing	1,015	1,020	983	973	1,062	923	837	900	
Customer service	647	652	622	613	539	531	449	461	
Technical operations	296	362	355	350	281	336	336	414	
Development	797	859	844	846	643	643	679	745	
General and administrative	2,237	2,260	2,052	2,238	1,071	2,435	2,199	2,363	
Depreciation	431	426	413	403	343	341	346	290	
Amortization				13	89	90	93	98	
Impairment of goodwill and other assets					1,100	45			
Total cost and expenses	18,914	18,480	16,245	17,284	13,548	12,717	12,286	11,086	
Loss from operations	(2,643)	(2,609)	(1,199)	(2,729)	(687)	(40)	(291)	(126)	
Interest expense (income) and other, net	(188)	(36)	113	(127)	144	120	(45)	(57)	
Loss before income taxes	(2,455)	(2,573)	(1,312)	(2,602)	(831)	(160)	(246)	(69)	
Provision (benefit) for income taxes	8,083	(836)	(311)	(889)	277	78	(165)	115	
Net loss	\$ (10,538)	\$ (1,737)	\$ (1,001)	\$ (1,713)	\$ (1,108)	\$ (238)	\$ (81)	\$ (184)	
Basic and diluted net loss per share <sup>1</sup>	\$ (0.51)	\$ (0.08)	\$ (0.05)	\$ (0.08)	\$ (0.05)	\$ (0.01)	\$ (0.00)	\$ (0.01)	
Shares used in computation of basic and diluted net loss per share <sup>1</sup>	20,816	20,699	20,625	20,596	20,595	20,595	20,589	20,587	
Average paying subscribers <sup>2</sup>	279,260	266,075	250,934	240,706	212,398	205,650	189,650	177,641	

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	Three Months Ended							
	Dec 31, 2012	Sep 30, 2012	Jun 30, 2012	Mar 31, 2012	Dec 31, 2011	Sep 30, 2011	Jun 30, 2011	Mar 31, 2011
Costs and expenses include stock-based compensation as follows:								
Cost of revenue	\$ 2	\$ 2	\$ 2	\$ 2	\$ 2	\$ 2	\$ 2	\$ 2
Sales and marketing	21	17	18	20	15	17	14	34
Customer service	1		1					
Technical operations	29	29	30	30	31	30	27	31
Development	11	10	10	11	10	10	10	12
General and administrative	150	138	138	141	125	124	226	182

- (1) For information regarding the computation of per share amounts, refer to Note 1 of our consolidated financial statements.
- (2) Represents average paying subscribers calculated as the sum of the average paying subscribers for each month in the period, divided by the three. Average paying subscribers for each month are calculated as the sum of the paying subscribers at the beginning and end of the month, divided by two.

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### **Liquidity and Capital Resources**

As of December 31, 2012, we had cash and cash equivalents of \$10.5 million. We have historically financed our operations with internally generated funds.

Net cash used in operations was \$3.9 million for the year ended December 31, 2012 compared to net cash provided by operations of \$3.1 million for the same period in 2011. The increase in Christian Networks direct marketing accounted for the majority of change in net cash used in operations.

Net cash used in investing activities was \$1.8 million for 2012 compared to \$1.9 million for the same period in 2011. Capital expenditures for 2012 and 2011 were \$2.1 million and \$1.6 million, respectively, representing the purchase of computer hardware and capitalized software. In 2012, the Company received \$520,000 in connection with the sale of certain real property received in 2011 as a result of a legal judgment in favor of the Company.

Net cash provided by financing activities was \$1.0 million for the year ended December 31, 2012 compared to \$88,000 for 2011. Cash provided by financing activities in 2012 was primarily related to proceeds from issuance of stock of \$1.1 million compared to \$21,000 for the same period in 2011.

The Company and its wholly-owned subsidiary, Spark Networks USA, LLC have a \$15.0 million revolving credit facility with Bank of America, which was entered into on February 14, 2008 with subsequent amendments (the "Credit Agreement"). The Credit Agreement matures on February 14, 2014.

On May 7, 2012, the parties executed a Fourth Amendment to the Credit Agreement (the "Amendment"). The Amendment, among other things, changes the per annum interest rate under the Credit Agreement. Pursuant to the Amendment, the per annum interest rate under the Credit Agreement is LIBOR, or the Eurodollar Rate (as defined in the Credit Agreement) under certain circumstances, plus 2.00%. In the event the Company elects to borrow under a base rate loan, the interest rate is increased to the prime rate plus 1.00%. Under the Amendment, the Company pays a 0.25% per annum commitment fee on all funds not utilized under the facility, measured on a daily basis.

The Amendment removed the requirement that the Company maintain a certain consolidated leverage ratio and consolidated fixed charge coverage ratio. The Amendment also updated the financial covenants regarding the requirement to maintain a minimum consolidated adjusted EBITDA, Jewish Networks minimum contribution, minimum consolidated net liquidity and minimum consolidated revenue during different periods. The Amendment permits the Company to repurchase or redeem equity interests or issue dividends of up to \$4.5 million during the term of the Credit Agreement. The Credit Agreement also contains other covenants, with exceptions, including restrictions on debt, liens and investments. A default could cause any outstanding amounts to become immediately due and payable and prohibit the Company from obtaining further credit under the Credit Agreement.

The Company was compliant with the Credit Agreement's customary affirmative and negative covenants, as of December 31, 2012.

As of December 31, 2012, there was no outstanding amount under the Credit Agreement. In connection with the original Credit Agreement and the first four amendments thereto, the Company paid deferred financing costs of approximately \$446,000 and \$105,000, respectively. Costs associated with both the original Credit Agreement and the first four amendments thereto were included in prepaid expenses and other, and deposits and other assets. The deferred financing costs are amortized to interest expense in the Consolidated Statements of Operations and Comprehensive (Loss) Income over the full term of the Credit Agreement. Amortization expense for the deferred financing costs for the years ended December 31, 2012 and December 31, 2011 were \$25,000 and \$56,000, respectively.

We believe that our current cash and cash equivalents, marketable securities and cash flow from operations will be sufficient to meet our anticipated cash needs for working capital, capital expenditures and contractual obligations, for at least the next 12 months. We do not anticipate requiring additional capital; however, if required or desirable, we may utilize our revolving credit facility, or raise additional debt or issue additional equity in the private or public markets.

**Table of Contents****Contractual Obligations**

The following table describes our contractual commitments and obligations as of December 31, 2012 (in thousands):

	Less than 1 year	1-3 years	4-5 years	More than 5 years	Total
Operating leases	\$ 773	\$ 824	\$ 326	\$	\$ 1,923
Other commitments and obligations	355	710			1,065
<b>Total contractual obligations</b>	<b>\$ 1,128</b>	<b>\$ 1,534</b>	<b>\$ 326</b>	<b>\$</b>	<b>\$ 2,988</b>

We had commitments and obligations consisting of operating leases, contracts with software licensing, communications, computer hosting and marketing service providers. Other commitments and obligations totaled \$355,000 for less than one year. Contracts with other service providers are for 30 day terms or less. For contingences related to our tax positions, we are unable to make a reasonably reliable estimate of the timing of payments in individual years beyond 12 months. As a result, this amount is not included in the table above.

**Off-Balance Sheet Arrangements**

We do not have any relationships with unconsolidated entities or financial partnerships, such as entities often referred to as structured finance or special purpose entities, which would have been established for the purpose of facilitating off-balance sheet arrangements or other contractually, narrow or limited purposes. We do not have any outstanding derivative financial instruments, off-balance sheet guarantees, interest rate swap transactions or foreign currency forward contracts.

**Recent Accounting Developments**

In June 2011, the Financial Accounting Standards Board (FASB) issued guidance on presentation of comprehensive income. The new guidance eliminates the option to report other comprehensive income and its components in the statement of changes in equity. Instead, an entity is required to present either a continuous statement of net income and other comprehensive income or in two separate but consecutive statements. In addition, in December 2011, the FASB issued an amendment to an existing accounting standard which defers the requirement to present components of reclassifications of other comprehensive income on the face of the income statement. The new guidance is effective for the Company beginning January 1, 2012 and the impact is limited to the presentation of financial statements.

In September 2011, the FASB issued an amendment to an existing accounting standard, which provides entities an option to perform a qualitative assessment to determine whether further impairment testing on goodwill is necessary. Specifically, an entity has the option to first assess qualitative factors to determine whether it is necessary to perform the current two-step test. If an entity believes, as a result of its qualitative assessment, that it is more-likely-than-not that the fair value of a reporting unit is less than its carrying amount, the quantitative impairment test is required. Otherwise, no further testing is required. This standard is effective for annual and interim goodwill impairment tests performed for fiscal years beginning after December 15, 2011. We adopted this standard in the first quarter of 2012 and the adoption did not have a material impact on our financial statements.

**ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

Not applicable for a smaller reporting company.

**ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA**

The information required by this Item 8 is incorporated by reference to the Index to Consolidated Financial Statements beginning at page F-1 of this annual report on Form 10-K.

**ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE**

None.

**ITEM 9A. CONTROLS AND PROCEDURES**

**Evaluation of Disclosure Controls and Procedures**

Our management, with the participation of our Chief Executive Officer and Chief Financial Officer performed an evaluation of the effectiveness of our disclosure controls and procedures as defined in Rules 13a-15(e) or 15d-15(e) under the Securities Exchange Act of 1934, as amended, or the Exchange Act. Based on that evaluation, the CEO and CFO concluded that our disclosure controls and procedures were effective as of December 31, 2012.

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**Internal Control Over Financial Reporting**

***(a) Management's annual report on internal controls over financial reporting***

The Company's management is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act. Under the supervision and with the participation of the Company's management, including its Chief Executive Officer and Chief Financial Officer, the Company conducted an evaluation of the effectiveness of its internal control over financial reporting based on criteria established in the framework in *Internal Control - Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission. Based on this evaluation, the Company's management concluded that its internal control over financial reporting was effective as of December 31, 2012.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risks that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

***(b) Attestation Report***

This annual report does not include an attestation report of the Company's independent registered public accounting firm regarding internal control over financial reporting. Management's report was not subject to attestation by the Company's registered public accounting firm pursuant to rules of the Securities and Exchange Commission that permit the Company to provide only management's attestation in this annual report.

***(c) Changes in internal control over financial reporting***

There have not been any changes in the Company's internal control over financial reporting (as such term is defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) during the most recent fiscal quarter that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

**ITEM 9B. OTHER INFORMATION**

None.

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**PART III**

**ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE.**

The information required by this Item 10 will be included in the Proxy Statement to be filed within 120 days after the fiscal year covered by this annual report on Form 10-K and is incorporated herein by reference.

**ITEM 11. EXECUTIVE COMPENSATION.**

The information required by this Item 11 will be included in the Proxy Statement, and such information is incorporated herein by reference.

**ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS.**

The information required by this Item 12, including Equity Compensation Plan Information, will be included in the Proxy Statement, and such information is incorporated herein by reference.

**ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE.**

The information required by this Item 13 will be included in the Proxy Statement, and such information is incorporated herein by reference.

**ITEM 14. PRINCIPAL ACCOUNTANT FEES AND SERVICES.**

The information required by this Item 14 will be included in the Proxy Statement, and such information is incorporated herein by reference.



**Table of Contents****PART IV****ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES**

- (a)(1) All financial statements and schedules have been omitted because they are either not applicable, not required or the information required has been disclosed in the Consolidated Financial Statements and related Notes to Consolidated Financial Statements beginning on page F-1, or otherwise included in this Form 10-K.
- (a)(3) Exhibits

Exhibit Number	Description of Exhibit
3.1	Amended and Restated Certificate of Incorporation of Spark Networks, Inc. (incorporated by reference to Exhibit 3.1 of the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on June 7, 2010).
3.2	Certificate of Designation of Series C Preferred Stock (incorporated by reference to Exhibit 3.1(A) of the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on July 9, 2007).
3.3(a)	Amended and Restated Bylaws effective June 7, 2010 of Spark Networks, Inc. (incorporated by reference to Exhibit 3.2 of the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on June 7, 2010).
3.3(b)	Amendment No. 1 to Amended and Restated Bylaws effective August 10, 2011 (incorporated by reference to Exhibit 3.1(a) of the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on August 11, 2011).
4.1	Rights Plan Dated July 9, 2007 Between Spark Networks, Inc. and The Bank of New York (incorporated by reference to Exhibit 4.1 of the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on July 9, 2007).
10.1(a)	Lease dated September 1, 2000 between Arden Realty Limited Partnership and the Registrant regarding 8383 Wilshire Boulevard (incorporated by reference to exhibit 10.1 of MatchNet, Inc.'s Registration Statement on Form S-1 (file no. 333-117940) filed with the Securities and Exchange Commission on August 4, 2004).
10.1(b)	First Amendment to Lease, dated September 5, 2000 (incorporated by reference to exhibit 10.1(a) of MatchNet, Inc.'s Registration Statement on Form S-1 (file no. 333-117940) filed with the Securities and Exchange Commission on August 4, 2004).
10.1(c)	Second Amendment to Lease, dated January 16, 2003 (incorporated by reference to exhibit 10.1(b) of MatchNet, Inc.'s Registration Statement on Form S-1 (file no. 333-117940) filed with the Securities and Exchange Commission on August 4, 2004).
10.1(d)	Third Amendment to Lease, dated October 30, 2003 (incorporated by reference to exhibit 10.1(c) of MatchNet, Inc.'s Registration Statement on Form S-1 (file no. 333-117940) filed with the Securities and Exchange Commission on August 4, 2004).
10.1(e)	Fourth Amendment to Lease, dated May 14, 2004 (incorporated by reference to exhibit 10.1(d) of MatchNet, Inc.'s Registration Statement on Form S-1 (file no. 333-117940) filed with the Securities and Exchange Commission on August 4, 2004).
10.1(f)	Fifth Amendment to Lease, dated January 31, 2006 (incorporated by reference to Exhibit 10.1(e) of the Registrant's Annual Report on Form 10-K filed with the Securities and Exchange Commission on March 13, 2006).
10.1(g)	Sixth Amendment to Lease, dated February 6, 2007 (incorporated by reference to Exhibit 10.1(f) of the Registrant's Annual Report on Form 10-K filed with the Securities and Exchange Commission on April 2, 2007).
10.1(h)	Seventh Amendment to Lease, dated November 27, 2007 (incorporated by reference to Exhibit 10.1(g) of the Registrant's Annual Report on Form 10-K filed with the Securities and Exchange Commission on March 31, 2008).
10.1(i)	Eighth Amendment to Lease, dated April 22, 2011 (incorporated by reference to Exhibit 10.1(i) of the Registrant's Annual Report on Form 10-K filed with the Securities and Exchange Commission on March 27, 2012).



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10.2(a)	2004 Share Option Scheme (incorporated by reference to Exhibit 10.2 of the Registrant's Registration Statement on Form S-1 (File No. 333-123228) filed with the Securities and Exchange Commission on March 10, 2005).
10.2(b)	Amendment to the 2004 Share Option Scheme, dated November 25, 2008 (incorporated by reference to Exhibit d(6) to the Registrant's Schedule TO filed with the Securities and Exchange Commission on December 2, 2008).
10.2(c)	Amendment to the 2004 Option Scheme (incorporated by reference to Exhibit 10.3 of the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on July 9, 2007).
10.3	Form of Option Agreement for 2004 Share Option Scheme (incorporated by reference to Exhibit 10.2(a) of the Registrant's Registration Statement on Form S-1/A (File No. 333-123228) filed with the Securities and Exchange Commission on November 14, 2005).
10.4(a)	2007 Omnibus Incentive Plan (incorporated by reference to Exhibit 10.6 of the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on July 9, 2007).
10.4(b)	Amendment No. 1 to the 2007 Omnibus Incentive Plan (incorporated by reference to Exhibit 10.1 of the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on January 6, 2009).
10.5	Form of Stock Option Agreement for 2007 Omnibus Incentive Plan (incorporated by reference to Exhibit 10.6(A) of the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on July 9, 2007).
10.6	Form of Restricted Stock Agreement for 2007 Omnibus Incentive Plan (incorporated by reference to Exhibit 10.6(B) of the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on July 9, 2007).
10.7	Form of Restricted Stock Unit Agreement for 2007 Omnibus Incentive Plan (incorporated by reference to Exhibit 10.6(C) of the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on July 9, 2007).
10.8	Standstill Agreement entered into by the Registrant and Great Hill Equity Partners II on December 1, 2005 (incorporated by reference to Exhibit 10.1 of the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on December 7, 2005).
10.9	Consent to Assignment and Assumption of Standstill Agreement with Great Hill Equity Partners II (incorporated by reference to Exhibit 10.2 of the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on July 9, 2007).
10.10	Form of Indemnification Agreement with Officers and Directors (incorporated by reference to Exhibit 10.4 of the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on July 9, 2007).
10.10(a)	Schedule of Officers and Directors who entered into Indemnification Agreements (incorporated by reference to Exhibit 10.12(a) of the Registrant's Annual Report on Form 10-K filed with the Securities and Exchange Commission on March 31, 2008).
10.11(a)	Executive Employment Agreement, dated February 12, 2007, between the Registrant and Adam S. Berger (incorporated by reference to Exhibit 10.1 of the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on February 13, 2007).
10.11(b)	Amendment No. 1, dated December 29, 2008, to Executive Employment Agreement between the Registrant and Adam S. Berger (incorporated by reference to Exhibit 10.1 of the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on December 31, 2008).
10.11(c)	Amendment No. 2, dated December 29, 2010, to Executive Employment Agreement between the Registrant and Adam S. Berger (incorporated by reference to Exhibit 10.1 of the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on January 3, 2011).
10.12	Separation Agreement and Release dated April 11, 2011 between Spark Networks, Inc. and Adam S. Berger (incorporated by reference to Exhibit 10.1 of Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on April 12, 2011).
10.13(a)	Executive Employment Agreement, dated April 11, 2011, between the Registrant and Gregory R. Liberman (incorporated by reference to Exhibit 10.2 of the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on April 12, 2011).

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10.13(b)	Amendment No. 1 to Employment Agreement dated December 20, 2012 between Spark Networks, Inc. and Gregory R. Liberman (incorporated by reference to Exhibit 10.1 of the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on December 21, 2012).
10.14(a)	Employment Agreement dated July 2, 2007 between Spark Networks plc and Joshua A. Kreinberg (incorporated by reference to Exhibit 10.5 of the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on July 9, 2007).
10.14(b)	Amendment No. 1, dated December 29, 2008, to Executive Employment Agreement between the Registrant and Joshua A. Kreinberg (incorporated by reference to Exhibit 10.3 of the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on December 31, 2008).
10.15(a)	Executive Employment Agreement dated May 16, 2007 between Spark Networks plc and Gregory J. Franchina (incorporated by reference to Exhibit 10.1 of the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on May 21, 2007).
10.15(b)	Amendment No. 1, dated December 30, 2008, to Executive Employment Agreement between the Registrant and Gregory J. Franchina (incorporated by reference to Exhibit 10.2 of the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on December 31, 2008)
10.16(a)	Executive Employment Agreement executed November 27, 2007 between Spark Networks, Inc. and Brett Zane (incorporated by reference to Exhibit 10.1 of the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on November 27, 2007).
10.16(b)	Amendment No. 1, dated December 29, 2008, to Executive Employment Agreement between the Registrant and Brett Zane (incorporated by reference to Exhibit 10.5 of the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on December 31, 2008).
10.17(a)	Credit Agreement dated February 14, 2008 among Spark Networks Limited, Spark Networks, Inc. and Bank of America, N.A. (incorporated by reference to Exhibit 10.01 of the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on February 19, 2008).
10.17(b)	First Amendment to Credit Agreement dated as of September 29, 2009 among Spark Networks Limited, Spark Networks, Inc., Bank of America, N.A., the other lenders thereto and Banc of America Securities LLC (incorporated by reference to Exhibit 10.1 of the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on September 29, 2009).
10.17(c)	Second Amendment to Credit Agreement dated as of February 7, 2011 among Spark Networks Limited, Spark Networks, Inc., Spark Networks USA, LLC, Bank of America, N.A., the other lenders thereto and Banc of America Securities LLC (incorporated by reference to Exhibit 10.1 of the Registrant's Current Report on Form 8-K filed with the Securities and Exchange Commission on February 8, 2011).
10.17(d)	Third Amendment to Credit Agreement dated as of May 11, 2011 among Spark Networks USA, LLC, Spark Networks, Inc., and Bank of America, N.A. (incorporated by reference to Exhibit 10.1 of the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on May 12, 2011).
10.17(e)	Fourth Amendment to Credit Agreement dated as of May 7, 2012 among Spark Networks, Inc., Spark Networks USA, LLC, the Subsidiary Guarantors, Bank of America, N.A. (as Administrative Agent), and the other lenders thereto (incorporated by reference to Exhibit 10.1 of the Registrant's Quarterly Report on Form 10-Q filed with the Securities and Exchange Commission on May 11, 2012).
10.18	Lease between the Irvine Company LLC and Spark Networks USA, LLC dated as of February 1, 2013.
21.1	List of subsidiaries (incorporated by reference to Exhibit 21.1 of the Registrant's Annual Report on Form 10-K filed with the Securities and Exchange Commission on March 25, 2011).
23.1	Consent of Ernst & Young LLP, Independent Registered Public Accounting Firm
31.1	Certification of Chief Executive Officer pursuant to Item 601(b)(31) of Regulation S-K, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certification of Chief Financial Officer pursuant to Item 601(b)(31) of Regulation S-K, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1*	Certifications of Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. Section 1350 as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.



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101.INS**	XBRL Instance Document
101.SCH**	XBRL Taxonomy Extension Schema Document
101.CAL**	XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF**	XBRL Taxonomy Extension Definition Linkbase Document
101.LAB**	XBRL Taxonomy Extension Label Linkbase Document
101.PRE**	XBRL Taxonomy Extension Presentation Linkbase Document

- \* This exhibit shall not be deemed filed for purposes of Section 18 of the Securities Exchange Act of 1934 or otherwise subject to the liabilities of that section, nor shall it be deemed incorporated by reference in any filing under the Securities Act of 1933 or the Securities Exchange Act of 1934, whether made before or after the date hereof and irrespective of any general incorporation language in any filings.
- \*\* Attached as Exhibits 101 to this report are documents formatted in XBRL (Extensible Business Reporting Language). Pursuant to Rule 406T of Regulation S-T, these interactive data files are deemed not filed or part of a registration statement or prospectus for purposes of Sections 11 or 12 of the Securities Act of 1933 or Section 18 of the Securities Exchange Act of 1934 and otherwise are not subject to liability.

**Table of Contents****SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Beverly Hills, State of California, on March 8, 2013.

**SPARK NETWORKS, INC.**

/s/ Gregory R. Liberman  
 Gregory R. Liberman  
 Chief Executive Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

Name	Position	Date
/s/ Gregory R. Liberman Gregory R. Liberman	Chief Executive Officer (Principal Executive Officer) and Director	March 8, 2013
/s/ Brett A. Zane Brett A. Zane	Chief Financial Officer (Principal Financial and Accounting Officer)	March 8, 2013
/s/ Jonathan B. Bulkeley Jonathan B. Bulkeley	Director	March 8, 2013
/s/ Benjamin A. Derhy Benjamin A. Derhy	Director	March 8, 2013
/s/ Michael A. Kumin Michael A. Kumin	Director	March 8, 2013
/s/ Thomas G. Stockham Thomas G. Stockham	Director	March 8, 2013
/s/ Peter L. Garran Peter L. Garran	Director	March 8, 2013

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**Report of Independent Registered Public Accounting Firm**

The Board of Directors and Stockholders of Spark Networks, Inc.

We have audited the accompanying consolidated balance sheets of Spark Networks, Inc. as of December 31, 2012 and 2011, and the related consolidated statements of operations and comprehensive (loss) income, stockholders' equity, and cash flows for each of the three years in the period ended December 31, 2012. These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated 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 consolidated financial statements are free of material misstatement. We were not engaged to perform an audit of the Company's internal control over financial reporting. Our audits included 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 Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the consolidated financial position of Spark Networks, Inc. at December 31, 2012 and 2011, and the consolidated results of its operations and its cash flows for each of the three years in the period ended December 31, 2012, in conformity with U.S. generally accepted accounting principles.

/s/ ERNST & YOUNG LLP

Los Angeles, California

March 8, 2013

**Table of Contents****SPARK NETWORKS, INC.****CONSOLIDATED BALANCE SHEETS**

(in thousands, except stock data)

	December 31,	
	2012	2011
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 10,458	\$ 15,106
Restricted cash	1,232	958
Accounts receivable, net of allowance of \$0 and \$1	1,510	1,146
Deferred tax asset - current	8	44
Prepaid expenses and other	861	1,164
Total current assets	14,069	18,418
Property and equipment, net	3,133	2,839
Goodwill	8,861	8,683
Intangible assets, net	2,143	1,900
Deferred tax asset - non-current	5	5,641
Deposits and other assets	153	455
Total assets	\$ 28,364	\$ 37,936
<b>Liabilities and Stockholders' Equity</b>		
Current liabilities:		
Accounts payable	\$ 1,093	\$ 952
Accrued liabilities	5,339	4,046
Deferred revenue	8,128	5,723
Deferred tax liability - current portion	257	203
Total current liabilities	14,817	10,924
Deferred tax liability	1,413	1,219
Other liabilities - non-current	588	1,141
Total liabilities	16,818	13,284
Commitments and contingencies (Note 11)		
Stockholders' equity:		
Authorized capital stock consists of 10,000,000 shares of Preferred Stock, \$0.001 par value, 450,000 of which are designated as Series C Junior Participating Cumulative Preferred Stock, with no shares of Preferred Stock issued or outstanding and 100,000,000 shares of Common Stock, \$0.001 par value, with 20,945,364 and 20,594,670 shares of Common Stock issued and outstanding at December 31, 2012 and 2011, respectively, at stated values of:		
	21	21
Additional paid-in-capital	54,857	53,014
Accumulated other comprehensive income	712	672
Accumulated deficit	(44,044)	(29,055)
Total stockholders' equity	11,546	24,652
Total liabilities and stockholders' equity	\$ 28,364	\$ 37,936

See accompanying notes.



**Table of Contents****SPARK NETWORKS, INC.****CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE (LOSS) INCOME****(in thousands, except per share data)**

	<b>Years Ended December 31,</b>		
	<b>2012</b>	<b>2011</b>	<b>2010</b>
Revenue	\$ 61,743	\$ 48,493	\$ 40,851
Cost and expenses:			
Cost of revenue (exclusive of depreciation shown separately below)	49,216	28,955	13,749
Sales and marketing	3,991	3,722	3,496
Customer service	2,534	1,980	1,601
Technical operations	1,363	1,367	1,232
Development	3,346	2,710	3,092
General and administrative	8,787	8,068	9,782
Depreciation	1,673	1,320	962
Amortization of intangible assets other than goodwill	13	370	421
Impairment of goodwill, long-lived assets and other assets		1,145	308
Total cost and expenses	70,923	49,637	34,643
Operating loss	(9,180)	(1,144)	6,208
Interest (income) expense and other, net	(238)	162	(54)
(Loss) income before income taxes	(8,942)	(1,306)	6,262
Provision for income taxes	6,047	305	2,558
Net (loss) income	\$ (14,989)	\$ (1,611)	\$ 3,704
Net (loss) income per share basic and diluted	\$ (0.72)	\$ (0.08)	\$ 0.18
Weighted average shares outstanding basic	20,781	20,591	20,586
Weighted average shares outstanding diluted	20,781	20,591	20,590
Other comprehensive income (loss), net of tax:			
Foreign currency translation adjustments	40	(101)	135
Total other comprehensive income (loss), net of tax	40	(101)	135
Comprehensive (loss) income	\$ (14,949)	\$ (1,712)	\$ 3,839

	<b>Years Ended December 31,</b>		
	<b>2012</b>	<b>2011</b>	<b>2010</b>
<b>Stock-Based Compensation</b> (in thousands)			
Cost of revenue	\$ 8	\$ 8	\$ 11
Sales and marketing	76	80	233
Customer service	2		1
Technical operations	118	119	167
Development	42	42	54
General and administrative	567	657	1,044
<b>See accompanying notes.</b>			



**Table of Contents****SPARK NETWORKS, INC.****CONSOLIDATED STATEMENTS OF STOCKHOLDERS EQUITY**

(in thousands)

	Common Stock		Additional Paid-in Capital	Accumulated Other Comprehensive Income	Accumulated Deficit	Total Stockholders Equity
	Shares	Amount		(Loss)		
BALANCE, December 31, 2009	20,582	\$ 21	\$ 48,813	\$ 638	\$ (31,148)	\$ 18,324
Issuance of common stock upon exercise of stock options	5		17			17
Excess tax benefits from stock-based compensation			1,680			1,680
Foreign currency translation adjustments, net of tax				135		135
Stock-based compensation			1,510			1,510
Net income					3,704	3,704
BALANCE, December 31, 2010	20,587	\$ 21	\$ 52,020	\$ 773	\$ (27,444)	\$ 25,370
Issuance of common stock upon exercise of stock options	8		21			21
Excess tax benefits from stock-based compensation			67			67
Foreign currency translation adjustments, net of tax				(101)		(101)
Stock-based compensation			906			906
Net loss					(1,611)	(1,611)
BALANCE, December 31, 2011	20,595	\$ 21	\$ 53,014	\$ 672	\$ (29,055)	\$ 24,652
Issuance of common stock upon exercise of stock options	350		1,053			1,053
Excess tax provisions from stock-based compensation			(23)			(23)
Foreign currency translation adjustments, net of tax				40		40
Stock-based compensation			813			813
Net loss					(14,989)	(14,989)
BALANCE, December 31, 2012	20,945	\$ 21	\$ 54,857	\$ 712	\$ (44,044)	\$ 11,546

See accompanying notes.

**Table of Contents****SPARK NETWORKS, INC.****CONSOLIDATED STATEMENTS OF CASH FLOWS**

(in thousands)

	Years Ended December 31,		
	2012	2011	2010
<b>Cash flows from operating activities:</b>			
Net (loss) income	\$ (14,989)	\$ (1,611)	\$ 3,704
Adjustments to reconcile net (loss) income to cash (used in) provided by operating activities:			
Depreciation and amortization	1,686	1,690	1,383
Impairment of goodwill, long-lived assets and other assets		1,145	308
Stock-based compensation	813	906	1,510
Non-current taxes payable and other	(534)	96	46
Foreign exchange (gain) loss on intercompany loan	(124)	337	(269)
Income from asset received from legal judgment	(151)	(247)	
Excess tax (provisions) benefits from stock-based compensation	23	(67)	(1,680)
Deferred taxes	5,897	(96)	1,843
Changes in operating assets and liabilities:			
Accounts receivable, net	(364)	(299)	(163)
Restricted cash	(274)	38	(315)
Prepaid expenses and other assets	336	(128)	(31)
Accounts payable and accrued liabilities	1,414	(100)	(641)
Deferred revenue	2,405	1,392	87
Net cash (used in) provided by operating activities	(3,862)	3,056	5,782
<b>Cash flows from investing activities:</b>			
Sales of property and equipment	520		1,560
Purchases of property and equipment	(2,081)	(1,583)	(1,324)
Purchases of businesses and intangible assets	(255)	(356)	(37)
Net cash (used in) provided by investing activities	(1,816)	(1,939)	199
<b>Cash flows from financing activities:</b>			
Proceeds from issuance of stock	1,053	21	17
Excess tax (provision) benefit from stock-based compensation	(23)	67	1,680
Net cash provided by financing activities	1,030	88	1,697
Net (decrease) increase in cash	(4,648)	1,205	7,678
Cash and cash equivalents at beginning of year	15,106	13,901	6,223
Cash and cash equivalents at end of year	\$ 10,458	\$ 15,106	\$ 13,901
Supplemental disclosure of cash flow information:			
Cash paid for income taxes	\$ 45	\$ 192	\$ 874
<b>See accompanying notes.</b>			

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**SPARK NETWORKS, INC.**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

**1. The Company and Summary of Significant Accounting Policies**

**The Company**

The common stock of Spark Networks, Inc., a Delaware corporation (the Company), is traded on the NYSE MKT.

On December 31, 2010, Spark Networks Limited (SNUK) distributed its shareholdings in each of HurryDate, LLC; MingleMatch, Inc.; Kizmeet, Inc.; SN Holdco, LLC; SN Events, Inc.; Reseaux Spark Canada Ltd. and Spark SocialNet, Inc. by transferring its shares in those companies to Spark Networks, Inc. Spark Networks, Inc. subsequently transferred all of its shares in the same companies to LOV USA, LLC, a newly formed and wholly owned subsidiary of Spark Networks, Inc. SNUK continues to hold all of the shares of Spark Networks (Israel) Limited, VAP AG and JDate Limited. In addition, SNUK now holds all of the shares of Spark Networks USA, LLC, a newly formed subsidiary into which SNUK has transferred all of its United States based assets.

The Company and its consolidated subsidiaries provide online personals services in the United States and internationally, whereby adults are able to post information about themselves (profiles) on the Company's Web sites and search and contact other individuals who have posted profiles.

Membership to the Company's online services, which includes the posting of a personal profile and photos, and access to its database of profiles, is free. The Company typically charges a subscription fee for varying subscription lengths (typically, one, three, six and twelve months) to members, allowing them to initiate communication with other members and subscribers utilizing the Company's onsite communication tools, including anonymous email, instant messenger, chat rooms and message boards. For most of the Company's services, two-way communications through the Company's email platform can only take place between paying subscribers.

**Principles of Consolidation**

The accompanying consolidated financial statements include the accounts of the parent Company and all of its majority-owned subsidiaries. All significant intercompany transactions and balances have been eliminated in consolidation.

The financial statements of the Company's foreign subsidiaries are prepared using the local currency as the subsidiary's functional currency. The Company translates the assets and liabilities using period-end rates of exchange, and revenue and expenses using average rates of exchange for the year. The resulting translation gain or loss is included in accumulated other comprehensive income (loss) and is excluded from net (loss) income.

The nature of the intercompany loan between the Company and its Israel subsidiary is classified as a loan which the Company expects to be settled. The foreign exchange gains and losses related to this loan are recorded as part of net (loss) income and excluded from accumulated other comprehensive income (loss). For the years ended December 31, 2012 and 2011, the Company recorded a foreign exchange gain of \$124,000 and a foreign exchange loss of \$337,000, respectively, related to the intercompany loan.

The results of the subsidiaries have been incorporated in the financial results of the consolidated entity since the date of acquisition.

**Revenue Recognition and Deferred Revenue**

Substantially all of the Company's revenue is derived from subscription fees. Revenue is presented net of credits and credit card chargebacks. The Company recognizes revenue in accordance with accounting principles generally accepted in the United States. Revenue recognition occurs ratably over the subscription period, beginning when there is persuasive evidence of an arrangement, delivery has occurred (access has been granted), the fees are fixed or determinable, and collection is reasonably assured. Subscribers pay in advance, primarily by using a credit card, and, subject to certain conditions identified in our terms and conditions, all purchases are final and nonrefundable. Fees collected in advance for subscriptions are deferred and recognized as revenue using the straight line method over the term of the subscription.





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The Company also earns a small amount of revenue from advertising sales and offline events. The Company records advertising revenue as it is delivered and is included in the total revenue of each segment that generates advertising sales. Revenue and the related expenses associated with offline events are recognized at the conclusion of each event.

### **Fair Value Measurement**

Fair value is a market-based measurement that should be determined based on assumptions that market participants would use in pricing an asset or a liability. As a basis for considering such assumptions, the guidance establishes a three-tier value hierarchy, which prioritizes the inputs used in the valuation methodologies in measuring fair value:

Level 1 Observable inputs that reflect quoted prices (unadjusted) for identical assets or liabilities in active markets.

Level 2 Other inputs that are directly or indirectly observable in the marketplace.

Level 3 Unobservable inputs which are supported by little or no market activity.

The fair value hierarchy requires an entity to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value.

As of December 31, 2012 and 2011, the Company had financial assets that consisted of cash and cash equivalents, which were measured at fair value using quoted prices for identical assets in an active market (Level 1 fair value hierarchy) in accordance with the latest guidance.

### **Cash and Cash Equivalents**

All highly liquid instruments with an original maturity of three months or less are considered cash and cash equivalents.

### **Restricted Cash**

The Company's credit card processors regularly withhold deposits and maintain balances which the Company records as restricted cash. As of December 31, 2012 and 2011, the Company had \$1.2 million and \$1.0 million in restricted cash, respectively.

### **Accounts Receivable**

Accounts receivable is primarily composed of credit card payments for subscription fees, less amounts withheld and presented as restricted cash, pending collection from the credit card processors and to a much smaller extent, receivables for advertising sales. The Company reviews its accounts receivable from advertisers on a monthly basis to determine if an allowance is necessary. The allowance for doubtful accounts as of December 31, 2011 is \$1,000. An allowance was not necessary as of December 31, 2012.

### **Prepaid Advertising Expenses**

In certain circumstances, the Company pays in advance for advertising and expenses the prepaid amounts over the contract periods as the vendors deliver on their commitments. The Company evaluates the realization of prepaid amounts at each reporting period, and expenses prepaid amounts upon delivery of services or if it determines that a vendor will be unable to deliver on its commitment and is not willing or able to repay the undelivered prepaid amount.

### **Web Site and Software Development Costs**

The Company capitalizes costs related to developing or obtaining internal-use software. Capitalization of costs begins after the preliminary project stage has been completed. Product development costs are expensed as incurred or capitalized into property and equipment. Costs incurred in the preliminary project and post-implementation stages of an internal use software project are expensed as incurred and certain costs incurred in the application development stage of a project are capitalized.

In accordance with the Accounting for Web Site Development Costs guidance, the Company expenses costs related to the planning and post implementation phases of Web site development efforts. Direct costs incurred in the development phase are capitalized. Costs associated with

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minor enhancements and maintenance for a Web site are included in expenses in the accompanying Consolidated Statements of Operations And Comprehensive (Loss) Income.

Capitalized Web site and software development costs are included in internal-use software in property and equipment and amortized over the estimated useful life of the products, which is usually three years. The following table summarizes capitalized software development costs for the years ended December 31, (in thousands):

	<b>2012</b>	<b>2011</b>	<b>2010</b>
Capitalized	\$ 1,641	\$ 1,250	\$ 1,100
Expensed	(1,186)	(850)	(504)
Impaired		(45)	(121)
Unamortized Balance	\$ 2,431	\$ 1,976	\$ 1,621

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### **Property and Equipment**

Property and equipment is stated at cost, net of accumulated depreciation, which is provided using the straight-line method over the estimated useful life of the asset. Amortization of leasehold improvements is calculated using the straight-line method over the estimated useful life of the asset or remaining term of the lease, whichever is shorter. Upon the sale or retirement of property or equipment, the cost and related accumulated depreciation and amortization are removed from the Company's consolidated financial statements with the resulting gain or loss, if any, reflected in the Company's results of operations.

### **Goodwill**

Goodwill represents the excess of the purchase price over the fair value of the net assets acquired resulting from business acquisitions, specifically allocated to reporting units. The Company determines its reporting units and operating segments through the use of the management approach. The management approach considers the internal organizational structure used by the Company's chief operating decision maker for making operating decisions and assessing performance. Annually, the Company analyzes the fair value of each reporting unit to assess if the fair value exceeds the carrying value. Fair value is determined based on the present value of estimated expected future cash flows using a discount rate commensurate with the risk involved, quoted market prices or appraised values, depending on the nature of the assets. If fair value is below the carrying amount of the reporting unit, the Company assesses what the fair value of the reporting unit is and impairs the excess. The valuation of intangible assets incorporates significant unobservable inputs and requires estimates, including the amount and timing of future cash flows. As of December 31, 2012 and 2011, the Company had unamortized goodwill of approximately \$8.9 million and \$8.7 million, respectively.

### **Intangible Assets**

Intangible assets resulting from the acquisitions of entities are recorded using the purchase method of accounting and estimated by management based on the fair value of assets received. Identifiable intangible assets are comprised mainly of domain names and acquired technologies. Domain names were determined to have indefinite useful lives, thus, they are not amortized. Intangible assets with finite useful lives are amortized using the straight-line method over their estimated useful lives.

In 2011, largely based on the valuation of domain names and capitalized software acquired from prior period acquisitions, the Company recorded an impairment charge of approximately \$1.1 million for intangible assets it deemed to not have substantial value. In 2012, an impairment charge was not necessary.

### **Impairment of Long-lived Assets**

The Company assesses the impairment of assets, which include property and equipment and identifiable intangible assets, whenever events or changes in circumstances indicate that such assets might be impaired and the carrying value may not be recoverable. Events and circumstances that may indicate that an asset is impaired may include significant decreases in the market value of an asset or common stock, a significant decline in actual and projected revenue, a change in the extent or manner in which an asset is used, shifts in technology, loss of key management or personnel, changes in the Company's operating model or strategy and competitive forces, as well as other factors.

If events and circumstances indicate that the carrying amount of an asset may not be recoverable and the expected undiscounted future cash flows attributable to the asset are less than the carrying amount of the asset, an impairment loss equal to the excess of the asset's carrying value over its fair value is recorded. Fair value is determined based on the present value of estimated expected future cash flows using a discount rate commensurate with the risk involved, quoted market prices or appraised values, depending on the nature of the assets. Fair value measurements utilized for assets under non-recurring measurements were measured with Level 3 unobservable inputs.

For the years 2011 and 2010, the Company impaired approximately \$45,000 and \$121,000, respectively, of capitalized software development costs when management determined that a Web-based product failed to perform to Company standards. In 2012, an impairment charge was not necessary.

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### **Income Taxes**

The Company accounts for income taxes under the asset and liability method. Accordingly, deferred income tax assets and liabilities are recognized for the future tax consequences attributable to differences between financial statement carrying amounts of existing assets and liabilities and their respective tax basis. Deferred tax assets and liabilities are measured using tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. Valuation allowances are established when necessary to reduce deferred taxes to the amount expected to be realized.

In assessing the potential realization of deferred tax assets, the Company considers whether it is more likely than not that some portion or all of the deferred tax assets will be realized. The ultimate realization of deferred tax assets is dependent upon the generation of future taxable income during the periods in which the Company's tax loss carry-forwards remain deductible.

The Company operates in multiple taxing jurisdictions, both within the United States and outside the United States. The Company has filed tax returns with positions that may be challenged by Federal and State tax authorities. These positions relate to, among others, transfer pricing, the deductibility of certain expenses, intercompany transactions as well as other matters. Although the outcome of tax audits is uncertain, the Company regularly assesses its tax position for such matters and, in management's opinion, adequate provisions for income taxes have been made for potential liabilities resulting from such matters. To the extent reserves are recorded, they will be utilized or reversed once the statute of limitations has expired and/or at the conclusion of the tax examination. The Company believes that the ultimate outcome of these matters will not have a material impact on its financial position or liquidity. The Company recognizes the tax effects from an uncertain tax position in our consolidated financial statements, only if the position is more-likely-than-not of being sustained on audit, based on the technical merits of the position. Tax positions that meet the recognition threshold are reported at the largest amount that is more-likely-than-not to be realized.

### **Cost of Revenue**

Cost of revenue consists primarily of direct marketing costs, compensation and other employee-related costs (including stock-based compensation) for personnel dedicated to maintaining our data centers, data center expenses and credit card fees. Direct marketing costs are expensed in the period incurred and primarily represent online marketing, including payments to search engines and affiliates, and offline marketing, including radio, billboards, television and print advertising. For the years ended December 31, 2012, 2011 and 2010, the Company incurred direct marketing costs amounting to approximately \$45.7 million, \$25.7 million and \$10.7 million, respectively.

### **Sales and Marketing**

The Company's sales and marketing expenses relate primarily to salaries for sales and marketing personnel and other associated costs such as business development, public relations and expenses related to the Company's travel and events business.

### **Customer Service**

The Company's customer service expenses consist primarily of personnel costs associated with our customer service centers. The members of our customer service team primarily respond to billing questions, detect fraudulent activity and eliminate suspected fraudulent activity, as well as address site usage and dating questions from our members.

### **Technical Operations**

The Company's technical operations expenses consist primarily of the personnel and systems necessary to support our corporate technology requirements.

### **Development**

The Company's development expenses relate primarily to salaries and wages for personnel involved in the development, enhancement and maintenance of its Web sites and services.

### **General and Administrative**

The Company's general and administrative expenses relate primarily to salaries and wages for corporate personnel, professional fees, occupancy and other overhead costs.



**Table of Contents****Stock-based Compensation**

The Company adopted the Stock-Based Payment guidance in 2005 using the modified prospective approach and accordingly periods prior to 2005 have not been restated to reflect the impact of the guidance.

Prior to our adoption of the guidance, the Company did not record tax benefits of deductions resulting from the exercise of share options because of the uncertainty surrounding the timing of realizing the benefits of our deferred tax assets in future tax returns. The guidance requires the cash flows resulting from the tax benefits resulting from tax deductions in excess of the compensation cost recognized for those options (excess tax benefits) to be classified as financing cash flows. In 2012, the Company recognized cash outflows of approximately \$23,000 related to a tax provision from the stock-based compensation. In 2011, the Company recognized cash inflows of approximately \$67,000 related to a tax benefit from the stock-based compensation.

The following is a chart showing variables which were used in the Black-Scholes option-pricing model for the years of:

	2012	2011	2010
Expected life in years	4.27-5.77	4.56	4.56
Dividend per share			
Volatility	35.0%	35.0-45.0%	40.0-45.0%
Risk-free interest rate	1.0-1.75%	1.4-3.0%	1.0-3.0%

The Company used historical and empirical data to assess different forfeiture rates for three different groups of employees. The Company must reassess forfeiture rates when deemed necessary and it must calibrate actual forfeiture behavior to what has already been recorded. For 2012, 2011 and 2010, there were three groups of employees whose behavior was significantly different from each other. Therefore, the Company estimated different forfeiture rates for each group.

The volatility rate was derived by examining historical stock price behavior and assessing management's expectations of stock price behavior during the term of the option.

Due to the re-pricing of most options in 2009, the Company is using the simplified method calculation, to determine the term of the options. The simplified method calculation derives the term by averaging the vesting term with the contractual terms. Option awards to date have generally vested and been expensed in equal annual installments over a four-year period.

The risk free interest rates are based on U.S Treasury zero-coupon bonds with similar terms for the periods in which the options were granted.

**Comprehensive (Loss) Income**

Comprehensive (loss) income is defined as the change in equity of a business enterprise during a period from transactions and other events and circumstances from non-owner sources. For the Company, comprehensive (loss) income consists of its reported net income (loss) and foreign currency translation adjustments, net of tax, for the years 2012, 2011 and 2010.

**Table of Contents****Fair Value of Financial Instruments**

The Company's financial instruments, including cash and cash equivalents, restricted cash, accounts receivable, prepaid expenses and other, accounts payable, and accrued liabilities are carried at cost, which approximates their fair value due to the short-term maturity of these instruments.

**Net (Loss) Income Per Share**

The Company calculates and presents the net (loss) income per share on both a basic and diluted basis. Basic net (loss) income per share is computed by dividing net (loss) income available to common stockholders by the weighted average number of shares of common stock outstanding.

	<b>For the Year Ended December 31</b> <b>(in thousands except per share amounts)</b>		
	<b>2012</b>	<b>2011</b>	<b>2010</b>
<b>Net (Loss) Income Per Common Share Basic and Diluted</b>			
Net (loss) income applicable to common stock	\$ (14,989)	\$ (1,611)	\$ 3,704
Weighted average shares outstanding- basic	20,781	20,591	20,586
Weighted average shares outstanding- diluted	20,781	20,591	20,590
<b>Net (Loss) Income Per Share Basic and Diluted</b>	<b>\$ (0.72)</b>	<b>\$ (0.08)</b>	<b>\$ 0.18</b>

Options to purchase 3.8 million, 3.5 million and 3.3 million shares for fiscal years 2012, 2011 and 2010, respectively, were not included in the computation of diluted net (loss) income per share because the options were anti-dilutive.

**Use of Estimates**

The preparation of financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates.

The Company estimates the amount of chargebacks that will occur in future periods to offset current revenue. The Company's revenue is collected through online credit card transactions. As such, the Company is subject to revenue reversals or chargebacks by consumers generally up to 90 days subsequent to the original sale date. The Company accrues chargebacks based on historical trends relative to sales levels by Web site. Fines are levied by the major credit card companies when chargeback expenses exceed certain thresholds. The Company estimates fines based on discussions with its merchant processing companies combined with standard fine schedules provided by the major credit card companies.

**Recent Accounting Developments**

In June 2011, the Financial Accounting Standards Board (FASB) issued guidance on presentation of comprehensive income. The new guidance eliminates the option to report other comprehensive income and its components in the statement of changes in equity. Instead, an entity is required to present either a continuous statement of net income and other comprehensive income or in two separate but consecutive statements. In addition, in December 2011, the FASB issued an amendment to an existing accounting standard which defers the requirement to present components of reclassifications of other comprehensive income on the face of the income statement. The new guidance was effective for the Company beginning January 1, 2012 and the impact was limited to the presentation of the consolidated financial statements.

In September 2011, the FASB issued an amendment to an existing accounting standard, which provides entities an option to perform a qualitative assessment to determine whether further impairment testing on goodwill is necessary. Specifically, an entity has the option to first assess qualitative factors to determine whether it is necessary to perform the current two-step test. If an entity believes, as a result of its qualitative assessment, that it is more-likely-than-not that the fair value of a reporting unit is less than its carrying amount, the quantitative impairment test is required. Otherwise, no further testing is required. This standard was effective for annual and interim goodwill impairment tests performed for fiscal years beginning after December 15, 2011. The Company adopted this standard in the first quarter of 2012 and the



adoption did not have a material impact on our financial statements.

**Table of Contents****2. Income Taxes**

(Loss) income before income taxes: (in thousands)	Year Ended December 31,		
	2012	2011	2010
U.S.	\$ (8,984)	\$ (619)	\$ 5,986
Foreign	42	(687)	276
	\$ (8,942)	\$ (1,306)	\$ 6,262
Income tax expense: (in thousands)	Year Ended December 31,		
	2012	2011	2010
<u>Current</u>			
Federal	\$ (22)	\$ (326)	\$ 1,920
State	143	638	518
Foreign	45	69	2
	166	381	2,440
<u>Deferred</u>			
Federal	(3,121)	50	60
State	95	(160)	35
Foreign	5	477	115
	(3,021)	367	210
Change in valuation allowance	8,902	(443)	(92)
Total income tax expense	\$ 6,047	\$ 305	\$ 2,558
Reconciliation of effective income tax rate:	Year Ended December 31,		
	2012	2011	2010
(Benefit) provision on earnings at federal statutory rate	(34.0)%	(34.0)%	34.0%
State tax (benefit) provision, net of federal (benefit) provision	(1.1)	6.0	4.8
Nondeductible expenses		0.3	0.3
Tax reserves	2.2	(1.3)	0.6
Change in effective tax rates	1.7	18.6	0.3
Foreign tax rate differential	0.3	9.6	(4.3)
Valuation allowance	100.0	(8.9)	3.0
Write down of deferred tax asset		34.1	
Other	(1.1)	(1.1)	2.2
Total provision for income taxes	68.0%	23.3%	40.9%

The Company's effective tax rate was also impacted by income taxes incurred in foreign and state jurisdictions. With respect to the income of its foreign subsidiary, the Company takes the position that the earnings of the foreign subsidiary are permanently invested in that jurisdiction. As a result, no additional income taxes have been provided on the possible repatriation of these earnings to the parent company. The Company has not calculated the amount of the deferred tax liability that would result from such repatriation as such determination is not practicable.



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The components of the deferred income tax asset (liability) for the periods presented are as follows:

(in thousands)	Year Ended December 31,		
	2012	2011	2010
<b>Deferred income tax assets</b>			
Net operating loss carry-forward	\$ 4,506	\$ 782	\$ 940
Depreciation and amortization	1,358	1,655	1,383
Compensation accruals	2,236	2,590	2,234
Credits	899	913	905
Other	573	496	534
<b>Total before valuation allowance</b>	<b>9,572</b>	<b>6,436</b>	<b>5,996</b>
Less: Valuation allowance	(9,568)	(649)	(805)
<b>Total deferred income tax asset</b>	<b>4</b>	<b>5,787</b>	<b>5,191</b>
<b>Deferred income tax liabilities</b>			
Foreign Intangible assets	(1,401)	(1,205)	(814)
Other	(260)	(319)	(277)
<b>Total deferred income tax liabilities</b>	<b>(1,661)</b>	<b>(1,524)</b>	<b>(1,091)</b>
<b>Total net deferred income tax (liabilities) assets</b>	<b>\$ (1,657)</b>	<b>\$ 4,263</b>	<b>\$ 4,100</b>

As of December 31, 2012, the Company has a valuation allowance against its U.S. and foreign deferred tax assets of approximately \$9.6 million. Companies are required to assess whether a valuation allowance should be recorded against their deferred tax assets ( DTAs ) based on the consideration of all available evidence, using a more likely than not realization standard. The four sources of taxable income that must be considered in determining whether DTAs will be realized are, (1) future reversals of existing taxable temporary differences (i.e. offset of gross deferred tax assets against gross deferred tax liabilities); (2) taxable income in prior carryback years, if carryback is permitted under the tax law; (3) tax planning strategies and (4) future taxable income exclusive of reversing temporary differences and carryforwards.

In assessing whether a valuation allowance is required, significant weight is to be given to evidence that can be objectively verified. The Company has evaluated its DTAs each reporting period, including an assessment of its cumulative income or loss over the prior three-year period, to determine if a valuation allowance was required. A significant negative factor in the assessment was the Company's three-year cumulative loss history as of December 31, 2012.

After a review of the four sources of taxable income described above and in view of its three-year cumulative loss, the Company was not able to conclude that it is more likely than not that its DTAs will be realized. As a result, the Company recorded an additional valuation allowance on its DTAs, with a corresponding charge to the income tax provision, of approximately \$8.9 million as of December 31, 2012.

At December 31, 2012, the Company has gross net operating loss carry-forwards for income tax purposes of approximately \$18.6 million and \$38.4 million available to reduce future federal and state taxable income, respectively, which expire beginning in the years 2025 for federal purposes and 2018 for state purposes. Under Section 382 of the Internal Revenue Code, the utilization of the net operating loss carry-forwards may be limited based on changes in the percentage ownership of the Company.

At December 31, 2012, the Company also has net operating loss carryovers for Israeli tax purposes of approximately \$2.9 million which do not expire.

At December 31, 2012, the Company has federal income tax credit carry-forwards for income tax purposes of approximately \$900,000 available to reduce future federal income tax.

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The Company recognizes excess tax benefits associated with the exercise of stock options directly to stockholders' equity only when realized. Accordingly, deferred tax assets are not recognized for net operating losses resulting from excess tax benefits. As of December 31, 2012, deferred tax assets do not include approximately \$4.8 million of these excess tax benefits from employee stock option exercises that are a component of the Company's net operating loss carry forwards. Accordingly, additional paid-in-capital will be increased up to an additional \$4.8 million if and when such excess tax benefits are realized. During 2012, approximately \$23,000 related to a net excess tax provision was realized.

The Company adopted the accounting guidance for uncertain tax positions on January 1, 2007. The guidance clarifies the accounting for income taxes by prescribing a minimum recognition threshold a tax position is required to meet before being recognized in the financial statements. The guidance also provides guidance on de-recognition, measurement, classification, interest and penalties, accounting in interim periods, disclosure and transition. Upon adoption, the Company recognized no adjustment in the amount of unrecognized tax positions. As of the date of adoption, the Company had no unrecognized tax positions.

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The following table summarizes the activity related to our unrecognized tax positions:

(in thousands)	2012	2011	2010
Balance at beginning of year	\$ 975	\$ 839	\$ 839
Additions for tax positions of prior years	250	463	
Reductions for tax positions of prior years		(327)	
Balance at end of year	\$ 1,225	\$ 975	\$ 839

Included in the unrecognized tax benefits of \$1.2 million at December 31, 2012 was \$941,000 of tax, if recognized, would reduce our annual effective tax rate.

The Company's policy is to recognize interest and penalties that would be assessed in relation to the settlement value of unrecognized tax benefits as a component of income tax (benefit) provision.

As of December 31, 2012 and 2011, the Company had recorded a \$216,000 and \$165,000 accrual for interest and penalties on unrecognized tax benefits, respectively. Interest expense (income) of \$51,000, (\$31,000) and \$58,000 were recognized in the years ended December 31, 2012, 2011 and 2010, respectively. The Company does not expect any significant decreases to its unrecognized tax benefit within the next 12 months.

The Company and its subsidiaries are subject to U.S. federal income tax as well as income tax in multiple state and foreign jurisdictions. With few exceptions, the Company is no longer subject to U.S. federal income tax examinations for years before 2009; state and local income tax examinations before 2008; and foreign income tax examinations before 2008. However, to the extent allowed by law, the tax authorities may have the right to examine prior periods where net operating losses were generated and carried forward, and make adjustments up to the amount of the net operating loss carry forward amount.

**3. Property and Equipment**

Property and equipment consists of the following:

(in thousands)	As of December 31,	
	2012	2011
Computer equipment	\$ 2,083	\$ 1,868
Computer software	6,060	4,831
Furniture, fixtures and equipment	694	592
Leasehold improvements	667	691
	9,504	7,982
Less: Accumulated depreciation	(6,371)	(5,143)
	\$ 3,133	\$ 2,839

Depreciation expense, for the years ended December 31, 2012 and 2011, was \$1.7 million and \$1.3 million, respectively, and is calculated on the straight-line basis over three years.

**Table of Contents****4. Goodwill and Other Intangible Assets****Goodwill**

Goodwill as of December 31, 2012 and 2011 is related to the purchase of Pointmatch in January 2004, MingleMatch, Inc. in May 2005, and LDSSingles in May 2006. Jewish Networks, Christian Networks, and Other Networks are the reporting units with goodwill balances. Jewish Networks goodwill balance at December 31, 2012 and 2011 was \$6.9 million and \$6.8 million, respectively. Christian Networks goodwill balance at December 31, 2012 and 2011 was \$1.7 million. Other Networks goodwill balance at December 31, 2012 and 2011 was \$232,000. The following table shows the activity and balances related to goodwill from January 1, 2011 to December 31, 2012:

(in thousands)	<b>Gross Goodwill</b>	<b>Accumulated Impairments</b>	<b>Net Goodwill</b>
Balance at January 1, 2011	\$ 22,890	\$ (13,734)	\$ 9,156
Foreign currency translation adjustments	(473) <sup>(1)</sup>		(473) <sup>(1)</sup>
Balance at December 31, 2011	22,417	(13,734)	8,683
Foreign currency translation adjustments	178 <sup>(1)</sup>		178 <sup>(1)</sup>
Balance at December 31, 2012	\$ 22,595	\$ (13,734)	\$ 8,861

<sup>(1)</sup> Foreign currency translation adjustments related to the Jewish Networks reporting unit.

In 2012, the Company performed its annual impairment analysis utilizing the qualitative assessment option. Qualitative factors were assessed to determine whether it was necessary to perform the two-step test (quantitative assessment). The analysis concluded that it is more-likely-than-not that the fair values of the Jewish Networks, Christian Networks and Other Networks exceeded their carrying values. At the conclusion of the analysis, it was determined that impairment was not warranted.

In 2011, the Company performed its annual impairment analysis utilizing a quantitative assessment. The fair value of the reporting units based on the market approach and income approach. The income approach relies upon discounted future cash flows which are derived from various assumptions including: projected cash flows, discount rates, projected long-term growth rates and terminal values. The Company used a discount rate which reflects the risks and uncertainty related to each reporting unit. The analysis concluded that the estimated reporting units fair values exceeded their carrying values. At the conclusion of the analysis, it was determined that impairment was not warranted.

**Other Intangibles**

Finite-lived intangible assets consist of purchased technologies and are amortized over the expected periods of benefits (five years).

Indefinite-lived intangible asset, consist of purchased domain names and are not amortized. Other intangible assets consist of the following:

(in thousands)	As of December 31, 2012		As of December 31, 2011	
	Gross Amount	Accumulated Amortization	Gross Amount	Accumulated Amortization
Purchased technologies	\$ 1,200	\$ (1,200)	\$ 1,200	\$ (1,187)
Domain names	2,143		1,887	
	\$ 3,343	\$ (1,200)	\$ 3,087	\$ (1,187)

Amortization expense for finite-lived intangible assets for the years ended December 31, 2012 and 2011 was \$13,000 and \$370,000, respectively. In 2011, the Company determined that certain domain names and computer software acquired from prior period acquisitions had no

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value based upon the expected future cash flows generated from the businesses associated with these assets, resulting in an impairment charge of approximately \$1.1 million.



**Table of Contents****5. Accrued Liabilities**

Accrued liabilities consist of the following:

	December 31,	
	2012	2011
	(in thousands)	
Advertising	\$ 1,789	\$ 1,452
Compensation	1,882	1,905
Other	1,668	689
Total	\$ 5,339	\$ 4,046

**6. Income on Possession of Assets**

In 2011, the Company became the record title owner of real property purchased in a sheriff's sale to partially satisfy the Company's outstanding judgment against Will Knedlik.

On June 15, 2012, the Company sold the real property. Based upon the net proceeds of the transaction, the Company realized a total gain of \$398,000, with \$247,000 of the gain being recognized in 2011 and \$151,000 upon the sale of the real property in 2012.

**7. Revolving Credit Facility**

The Company and its wholly-owned subsidiary, Spark Networks USA, LLC have a \$15.0 million revolving credit facility with Bank of America, which was entered into on February 14, 2008 with subsequent amendments (the "Credit Agreement"). The Credit Agreement matures on February 14, 2014.

On May 7, 2012, the parties executed a Fourth Amendment to the Credit Agreement (the "Amendment"). The Amendment, among other things, changes the per annum interest rate under the Credit Agreement. Pursuant to the Amendment, the per annum interest rate under the Credit Agreement is LIBOR, or the Eurodollar Rate (as defined in the Credit Agreement) under certain circumstances, plus 2.00%. In the event the Company elects to borrow under a base rate loan, the interest rate is increased to the prime rate plus 1.00%. Under the Amendment, the Company pays a 0.25% per annum commitment fee on all funds not utilized under the facility, measured on a daily basis.

The Amendment removed the requirement that the Company maintain a certain consolidated leverage ratio and consolidated fixed charge coverage ratio. The Amendment also updated the financial covenants regarding the requirement to maintain a minimum consolidated adjusted EBITDA, Jewish Networks minimum contribution, minimum consolidated net liquidity and minimum consolidated revenue during different periods. The Amendment permits the Company to repurchase or redeem equity interests or issue dividends of up to \$4.5 million during the term of the Credit Agreement. The Credit Agreement also contains other covenants, with exceptions, including restrictions on debt, liens and investments. A default could cause any outstanding amounts to become immediately due and payable and prohibit the Company from obtaining further credit under the Credit Agreement.

The Company was compliant with the Credit Agreement's customary affirmative and negative covenants, as of December 31, 2012.

As of December 31, 2012, there was no outstanding amount under the Credit Agreement. In connection with the original Credit Agreement and the first four amendments thereto, the Company paid deferred financing costs of approximately \$446,000 and \$105,000, respectively. Costs associated with both the original Credit Agreement and the first four amendments thereto were included in prepaid expenses and other, and deposits and other assets. The deferred financing costs are amortized to interest expense in the Consolidated Statements of Operations and Comprehensive (Loss) Income over the full term of the Credit Agreement. Amortization expense for the deferred financing costs for the years ended December 31, 2012 and 2011 were \$25,000 and \$56,000, respectively.

**Table of Contents****8. Stockholders' Equity****Employee Stock Option Plans**

On July 9, 2007, pursuant to the completion of the Scheme of Arrangement, the Company adopted the Spark Networks, Inc. 2007 Omnibus Incentive Plan (the 2007 Plan) authorizing and reserving 2.5 million options. In connection with the Company's Scheme of Arrangement, the 2004 Share Option Plan was frozen; however, all outstanding options previously granted thereunder continue in full force and effect.

Awards under the 2007 Plan may include incentive stock options, nonqualified stock options, stock appreciation rights (SARs), restricted shares of common stock, restricted stock units, performance stock or unit awards, other stock-based awards and cash-based incentive awards.

The Compensation Committee may grant an award to a participant. The terms and conditions of the award, including the quantity, price, vesting periods and other conditions on exercise will be determined by the Compensation Committee.

The exercise price for stock options will be determined by the Compensation Committee in its discretion, but may not be less than 100% of the closing sale price of one share of the Company's common stock on the NYSE MKT (or any other applicable exchange on which the stock is listed) on the date when the stock option is granted. Additionally, in the case of incentive stock options granted to a holder of more than 10% of the total combined voting power of all classes of stock of the Company on the date of grant, the exercise price may not be less than 110% of the closing sale price of one share of common stock on the date the stock option is granted.

As of December 31, 2012, total unrecognized compensation cost related to non-vested stock options was \$2.3 million. This cost is expected to be recognized over a weighted-average period of 3 years. The following table describes option activity for the years ended December 31, 2012, 2011 and 2010:

	Years Ended December 31,		
	2012	2011	2010
Granted, weighted average fair value per share	\$ 2.02	\$ 1.02	\$ 1.07
Exercised, weighted average intrinsic value per share	\$ 2.89	\$ 0.32	\$ 0.46
Aggregate intrinsic value of options outstanding and exercisable (in thousands)	\$ 12,614	\$ 1,571	\$ 371

Information relating to outstanding stock options is as follows (in thousands, except Weighted Average Price per Share):

	Number of Shares	Weighted Average Price per Share
Outstanding at December 31, 2010	3,364	\$ 3.12
Granted	700	3.19
Exercised	(8)	2.96
Expired	(10)	3.30
Forfeited	(463)	2.99
Outstanding at December 31, 2011	3,583	3.14
Granted	665	7.36
Exercised	(350)	3.00
Expired	(12)	4.38
Forfeited	(57)	3.15
Outstanding at December 31, 2012	3,829	\$ 3.88



**Table of Contents****Option Range Summary**

As of December 31, 2012

Range of Exercise Prices	Options Outstanding			Options Exercisable		
	Number of Shares	Weighted Average Remaining Life	Weighted Average Exercise Price	Number of Shares	Weighted Average Remaining Life	Weighted Average Exercise Price
\$3.18 - \$10.00	1,507	7	\$ 5.27	550	5	\$ 3.88
\$3.00	2,202	4	\$ 3.00	2,071	4	\$ 3.00
\$2.18 - \$2.99	120	3	\$ 2.54	99	3	\$ 2.57
	3,829	5	\$ 3.88	2,720	5	\$ 3.16

**Re-Pricing of Employees Options**

In 2009, the Company offered to re-price options for certain employees. These employees could surrender their existing options in exchange for a like number of options with a new grant date, a lower exercise price, a lower number of vested options and a modified vesting schedule. The exchange of options was treated as a synthetic re-pricing, which includes a cancellation and replacement of equity instruments. The incremental expense was approximately \$1.0 million and is being recognized over the four year vesting term of the newly issued options. The incremental expenses recognized for the years ended December 31, 2012, 2011 and 2010 were \$172,000, \$172,000 and \$339,000, respectively.

**Stockholder Rights Plan**

In July 2007, the Company adopted a stockholder rights plan. The rights accompany each share of common stock of the Company and are evidenced by ownership of common stock. The rights are not exercisable except upon the occurrence of certain takeover-related events. Once triggered, the rights would entitle the stockholders, other than a person qualifying as an Acquiring Person pursuant to the rights plan, to purchase additional common stock at a 50% discount to their fair market value. The rights issued under the Rights Plan may be redeemed by the board of directors at a nominal redemption price of \$0.001 per right, and the board of directors may amend the rights in any respect until the rights are triggered.

**9. Employee Benefit Plan**

The Company has a defined contribution plan under Section 401(k) of the Internal Revenue Code covering all full-time employees, and providing for matching contributions by the Company, as defined in the plan. Participants in the plan may direct the investment of their personal accounts to a choice of mutual funds consisting of various portfolios of stocks, bonds or cash instruments. Contributions made by the Company to the plan for the years ended December 31, 2012, 2011 and 2010 were approximately \$349,000, \$338,000 and \$333,000, respectively.

**10. Segment Information**

Segment reporting requires the use of the management approach in determining the reportable operating segments. The management approach considers the internal organization and reporting used by our chief operating decision maker for

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making operating decisions and assessing performance. The Company's financial reporting includes detailed data on four separate reportable segments which were principally determined based on similarity of economic characteristics. During the first quarter of 2012, the Company's management modified the internal reporting of its operating segments to: (1) Jewish Networks, which consists of JDate.com, JDate.co.uk, JDate.fr, JDate.co.il, Cupid.co.il, and their respective co-branded Web sites; (2) Christian Networks, which now consists of ChristianMingle.com, ChristianMingle.co.uk, ChristianMingle.com.au, Believe.com, ChristianCards.net, DailyBibleVerse.com and Faith.com; (3) Other Networks, which consists of Spark.com and related other general market Web sites as well as other properties which are primarily composed of sites targeted towards various religious, ethnic, geographic and special interest groups; and (4) Offline & Other Businesses, which consists of revenue generated from offline activities and HurryDate events and subscriptions. The Company believes the new segments provide investors with greater transparency into the performance of the business. Prior period amounts presented in this Annual Report on Form 10-K have been reclassified to conform to the current period presentation.

(in thousands)	Years Ended December 31		
	2012	2011	2010
<b>Revenue</b>			
Jewish Networks	\$ 26,034	\$ 27,054	\$ 27,440
Christian Networks	31,574	15,742	5,828
Other Networks	3,765	4,925	6,619
Offline and Other Businesses	370	772	964
<b>Total Revenue</b>	<b>\$ 61,743</b>	<b>\$ 48,493</b>	<b>\$ 40,851</b>
<b>Direct Marketing Expenses</b>			
Jewish Networks	\$ 3,111	\$ 3,389	\$ 2,321
Christian Networks	41,400	19,356	4,953
Other Networks	977	2,467	2,921
Offline and Other Businesses	165	512	535
<b>Total Direct Marketing Expenses</b>	<b>\$ 45,653</b>	<b>\$ 25,724</b>	<b>\$ 10,730</b>
<b>Unallocated Operating Expense</b>	<b>25,270</b>	<b>23,913</b>	<b>23,913</b>
<b>Operating (Loss) Income</b>	<b>\$ (9,180)</b>	<b>\$ (1,144)</b>	<b>\$ 6,208</b>

Due to the Company's integrated business structure, cost and expenses, other than direct marketing expenses, are not allocated to the individual reporting segments. As such, the Company does not measure operating profit or loss by segment for internal reporting purposes. Assets are not allocated to the different business segments for internal reporting purposes.

The Company operates several international Web sites; however, many of them are operated and managed by the Company's U.S. operations. Foreign revenue represents sales generated outside the U.S. where the Company has its principal operations. Revenue and identifiable long-lived assets (excluding deferred tax assets, goodwill and intangibles) by geographical area are as follows:

(in thousands)	Years Ended December 31		
	2012	2011	2010
<b>Revenue</b>			
United States	\$ 57,734	\$ 44,358	\$ 36,849
Israel	4,009	4,135	4,002
<b>Total Revenue</b>	<b>\$ 61,743</b>	<b>\$ 48,493</b>	<b>\$ 40,851</b>

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	As of December 31,	
	2012	2011
<b>Long-Lived Assets</b>		
United States	\$ 3,144	\$ 3,117
Israel	142	177
<b>Total Long-Lived Assets</b>	<b>\$ 3,286</b>	<b>\$ 3,294</b>

**Table of Contents****11. Commitments and Contingencies****Operating Leases**

The Company leases its office and data center facilities under operating lease agreements, providing for annual minimum lease payments as follows:

<b>Year Ending (amounts in thousands)</b>	
2013	\$ 773
2014	584
2015	240
2016	204
2017	122
<b>Total</b>	<b>\$ 1,923</b>

Rental expense under non-cancelable operating leases with scheduled rent increases or free rent is accounted for on a straight-line basis over the lease term. Leasehold improvement incentives are recorded as deferred credits and are amortized on a straight-line basis as a reduction of rent expense over the lease term.

The Company recognized rent expense under operating leases of \$1.0 million, \$1.0 million and \$1.3 million for the years ended December 31, 2012, 2011 and 2010, respectively.

**Other Commitments and Obligations**

The Company has other non-cancelable commitments and obligations consisting of contracts with software licensing, communications and marketing service providers. These amounts totaled \$355,000 for less than one year and \$710,000 between one and three years. Contracts with other service providers are for terms less than one year.

<b>Year Ending (amounts in thousands)</b>	
2013	\$ 355
2014	355
2015	355
<b>Total</b>	<b>\$ 1,065</b>

**Legal Proceedings***ISYSTEMS v. Spark Networks, Inc. et al.*

On July 11, 2008, ISYSTEMS initiated a lawsuit against Spark Networks, Inc. and Spark Networks Limited (collectively, Spark Networks ) and other parties in the United States District Court, Northern District of Texas, Dallas Division. The lawsuit was filed in response to an arbitration award ordering the transfer of the domain name, JDATE.NET, to Spark Networks Limited from ISYSTEMS. Spark Networks was apprised of the lawsuit after ISYSTEMS unsuccessfully attempted to utilize the filing of the lawsuit to prevent the domain transfer to Spark Networks Limited. On December 1, 2008, Spark Networks filed a Motion to Dismiss the Complaint, or, Alternatively, for Summary Judgment. On September 10, 2009, the Court granted Spark Networks motion and dismissed the case with prejudice. On September 22, 2009, ISYSTEMS filed a motion to vacate the order dismissing the action and requesting leave to amend its complaint. On October 26, 2009, the Court granted ISYSTEMS motion and ISYSTEMS filed its Amended Complaint on November 25, 2009. On January 19, 2010, Spark Networks filed a Motion to Dismiss the Amended Complaint, or Alternatively, for Summary Judgment. The Court granted Spark Networks Motion to Dismiss on June 28, 2010 and entered a judgment in favor of Spark Networks. On July 25, 2010, ISYSTEMS filed a motion to vacate the order granting the motion to dismiss, which was denied by the Court on August 11, 2010. On September 10, 2010, ISYSTEMS filed a notice of appeal of the

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district court's order and judgment to the United States Court of Appeals for the Fifth Circuit. On June 13, 2011, the United States Court of Appeals for the Fifth Circuit issued its opinion affirming the District Court's judgment. On June 29, 2011, ISYSTEMS filed a Petition for Rehearing with the United States Court of Appeals for the Fifth Circuit, which was granted. Oral argument was held on December 8, 2011. Per the Fifth Circuit's request, the parties submitted supplemental briefs on December 16, 2011. On March 21, 2012, the Fifth Circuit issued its opinion affirming the District Court's dismissal of certain claims and reversing



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the dismissal of certain other claims. On April 19, 2012, the matter was remanded back to the District Court. On September 4, 2012, Spark Networks filed its Answer to the Complaint. By written order dated August 30, 2012, the Court set the action for trial on February 24, 2014.

*B.E. Technology, L.L.C. v. Spark Networks, Inc.*

On September 22, 2012, B.E. Technology, L.L.C. commenced a lawsuit against Spark Networks, Inc. in the Western District of Tennessee, B.E. Technology, L.L.C. v. Spark Networks, Inc., Civil Action No. 2:12-cv-02832-cgc, for alleged infringement of U.S. Patent No. 6,628,314. The patent is entitled Computer Interface Method And Apparatus With Targeted Advertising. The Complaint alleges that Spark Networks has infringed at least claim 11 of the 314 patent by using a method of providing demographically targeted advertising, and seeks damages and an injunction. On December 31, 2012, Spark filed an Answer to the Complaint denying that the 314 patent was infringed by Spark and alleging, among other things, that the patent was invalid. On January 7, 2013, B.E. Technology served its Initial Infringement Contentions asserting that Spark had infringed claims 11, 12, 13, 15, 18, 19 and 20. The Company has made a motion to transfer the case to California.

*Kirby, et al. v. Spark Networks USA, LLC*

On October 16, 2012, Kristina Kirby, Christopher Wagner and Jamie Carper (collectively referred to as Plaintiffs ), on behalf of themselves and all other similarly situated, filed a putative class action Complaint in the Superior Court for the State of California, County of Los Angeles (Case No. BC493892) alleging claims against Spark Networks USA, LLC for violations of California Business & Professions Code section 17529.5. Plaintiffs allege that certain e-mail communications advertising Web sites of Spark Networks USA, LLC and received by Plaintiffs violate a California statute prohibiting false and deceptive e-mail communications (namely, California Business & Professions Code section 17529.5). Plaintiffs generally allege that they seek damages in excess of \$25,000.

The Company strongly disputes the merits of the claims asserted against it in each of these lawsuits and shall vigorously defend against them.

The Company has additional existing legal claims and may encounter future legal claims in the normal course of business. In the Company's opinion, the resolutions of the existing legal claims are not expected to have a material impact on its financial position or results of operations. The Company believes it has accrued appropriate amounts where necessary in connection with the above litigation.

## **12. Related Party Transactions**

In December 2011, the Company entered into a three year operating lease with Latisys-Irvine, Inc., a colocation and data center operator to provide colocation, cages, connectivity and other related equipment and services. Great Hill Partners, an owner of more than 5% of the Company's stock, has informed the Company that it has an ownership position in Latisys-Irvine, Inc. The Company paid \$189,000 for services rendered by Latisys-Irvine, Inc. in 2012.

In January 2012, the Company entered into an agreement with Ultra Unlimited Corp., a software development firm, to develop and initially operate a Web site for the Company and to provide the Company with certain software. The Chief Executive Officer of Ultra Unlimited Corp. is the brother of Michael Kumin, a director of the Company. Michael Kumin and Jonathan Bulkeley, also a director of the Company, have informed the Company that they are individual investors in Ultra Unlimited Corp. The Company paid Ultra Unlimited Corp. \$159,000 for services rendered in 2012.

## **13. Quarterly Results of Operations**

The following tables present the Company's quarterly results of operations and should be read in conjunction with the consolidated financial statements and related notes. The Company has prepared the unaudited information on substantially the same basis as our audited consolidated financial statements which, in the opinion of management, includes all adjustments, consisting only of normal recurring adjustments, except as otherwise indicated, necessary for the presentation of the results of operations for such periods. Operating results for any quarter are not necessarily indicative of results for any future quarters or for a full year.

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(in thousands, except per share amount)	Three Months Ended							
	Dec. 31, 2012	Sept. 30, 2012	June 30, 2012	March 31, 2012	Dec. 31, 2011	Sept. 30, 2011	June 30, 2011	March 31, 2011
<b>Consolidated Statement of Operations Data:</b>								
Revenue	\$ 16,271	\$ 15,871	\$ 15,046	\$ 14,555	\$ 12,861	\$ 12,677	\$ 11,995	\$ 10,960
Cost of revenue	13,491	12,901	10,976	11,848	8,420	7,373	7,347	5,815
Sales and marketing	1,015	1,020	983	973	1,062	923	837	900
Customer service	647	652	622	613	539	531	449	461
Technical operations	296	362	355	350	281	336	336	414
Development	797	859	844	846	643	643	679	745
General and administrative	2,237	2,260	2,052	2,238	1,071	2,435	2,199	2,363
Depreciation	431	426	413	403	343	341	346	290
Amortization				13	89	90	93	98
Impairment of goodwill and other assets					1,100	45		
Total cost and expenses	18,914	18,480	16,245	17,284	13,548	12,717	12,286	11,086
Loss from operations	(2,643)	(2,609)	(1,199)	(2,729)	(687)	(40)	(291)	(126)
Interest expense (income) and other, net	(188)	(36)	113	(127)	144	120	(45)	(57)
Loss before income taxes	(2,455)	(2,573)	(1,312)	(2,602)	(831)	(160)	(246)	(69)
Provision (benefit) for income taxes	8,083	(836)	(311)	(889)	277	78	(165)	115
Net loss	\$ (10,538)	\$ (1,737)	\$ (1,001)	\$ (1,713)	\$ (1,108)	\$ (238)	\$ (81)	\$ (184)
Net loss per share basic and diluted	\$ (0.51)	\$ (0.08)	\$ (0.05)	\$ (0.08)	\$ (0.05)	\$ (0.01)	\$ (0.00)	\$ (0.01)
Shares used in computation of basic and diluted net loss per share	20,816	20,699	20,625	20,596	20,595	20,595	20,589	20,587

**14. Subsequent Events (unaudited)**

The Company evaluated subsequent events through the date this Annual Report on Form 10-K was filed with the Securities and Exchange Commission.

Subsequent to the balance sheet date, on February 1, 2013 the Company entered into a new office space lease for approximately 16,000 square feet of office space in Los Angeles, California. The current office space lease in Beverly Hills, California expires on July 31, 2013 and the Company will relocate the corporate, administrative, technology and development personnel, to the new office space prior to its expiration.