

EPIQ SYSTEMS INC

FORM 8-K

(Current report filing)

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Address	501 KANSAS AVENUE KANSAS CITY, KS 66105-1309
Telephone	9136219500
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Symbol	EPIQ
SIC Code	7371 - Computer Programming Services
Industry	Software & Programming
Sector	Technology
Fiscal Year	12/31

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 OR 15(d) of The Securities Exchange Act of 1934

April 22, 2009 (April 22, 2009)

Date of Report (Date of earliest event reported)

EPIQ Systems, Inc.

(Exact name of registrant as specified in its charter)

Missouri
(State or other jurisdiction
of incorporation)

000-22081
(Commission
File Number)

48-1056429
(IRS Employer
Identification No.)

501 Kansas Avenue, Kansas City, Kansas 66105
(Address of principal executive offices)

(913) 621-9500
(Registrant's telephone number, including area code)

N/A

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 2.02. Results of Operations and Financial Condition.

On April 22, 2009, Epiq Systems, Inc. issued a press release announcing its financial results for the three months ended March 31, 2009. A copy of the press release is attached as Exhibit 99.1 to this report and is incorporated herein by reference.

The attached press release includes three non-GAAP financial measures that management uses and that the company believes may be useful to investors:

- Non-GAAP net income, calculated as net income adjusted for amortization of acquisition intangibles, share-based compensation, realized cash gains on financial instruments, non-cash mark-to-market adjustments, acquisition expense, the effect of tax adjustments which are outside of the company's anticipated effective tax rate, and capitalized loan fee amortization, all net of tax;
- Non-GAAP earnings per share, calculated as non-GAAP net income on a fully diluted per share basis; and
- Non-GAAP adjusted EBITDA, calculated as net income adjusted for interest/financing, taxes, depreciation, amortization, share-based compensation, realized cash gains on financial instruments, non-cash mark-to-market adjustments, and acquisition expense.

Reconciliations of each of these non-GAAP measures are included in schedules to the press release filed with this report. The press release also includes certain reconciliations of non-GAAP financial measures for the company's business segments.

These non-GAAP financial measures are intended to supplement the accounting principles generally accepted in the United States of America (GAAP) financial information included in the press release by providing management and investors with additional insight regarding results of operations.

Management uses non-GAAP net income (i) in its strategic planning for the company and (ii) in evaluating the results of operations of the company. Management believes the non-GAAP net income measure provides management with additional perspective when evaluating the results of operations and may be similarly useful to investors when evaluating financial results of the company for comparable periods for the following reasons:

- Certain of the adjusted items can fluctuate significantly from period-to-period due in part to the timing of completion of acquisitions or divestitures, the timing of refinancings (whether or not related to acquisitions) and similar events. Management believes the adjustments to net income may be useful to investors in comparing the results of operations of the company without the effect of those items;
- Certain of the adjusted items represent non-cash credits or charges to net income, which investors may find useful in excluding from operating results to evaluate comparable periods; and
- Mark-to-market adjustments represent non-cash credits or charges related to its convertible debt embedded option and interest rate floor options, adjusted to reflect realized cash gains.

Management also uses non-GAAP earnings per share, which is calculated as non-GAAP net income on a fully diluted per share basis. Management uses non-GAAP earnings per share for the same reasons that it uses non-GAAP net income and believes that non-GAAP earnings per share may be useful to investors for the same purposes as non-GAAP net income. The compensation committee has used non-GAAP earnings per share in evaluating the performance of management and in determining executive bonuses.

Management also uses non-GAAP adjusted EBITDA as a non-GAAP performance measure. Management regularly reviews non-GAAP adjusted EBITDA as it assesses its current and prospective operating results, and for assessing anticipated operating results for acquired businesses. Management uses non-GAAP adjusted EBITDA (i) in its strategic planning for the company and its business segments and (ii) in evaluating the results of operations of the company. The compensation committee has used non-GAAP adjusted EBITDA in evaluating the performance of management and in determining executive bonuses. Management believes non-GAAP adjusted EBITDA is useful to management and may be useful to investors in evaluating the results of operations when comparing financial results for comparable periods for the following reasons:

- Certain of the adjusted items can fluctuate significantly from period-to-period due in part to the timing of completion of acquisitions or divestitures, the timing of refinancings (whether or not related to acquisitions) and similar events. Management believes the adjustments to non-GAAP adjusted EBITDA may be useful to investors in comparing the results of operations of the company without the effect of those items; and
- Certain of the adjusted items represent non-cash credits or charges to net income, which investors may find useful in excluding from operating results to evaluate comparable periods; and
- Mark-to-market adjustments represent non-cash credits or charges related to its convertible debt embedded option and interest rate floor options, adjusted to reflect realized cash gains.

Management recognizes that its use of non-GAAP net income, non-GAAP earnings per share and non-GAAP adjusted EBITDA has various limitations, including the fact that the adjusted items may be a normally recurring expense or may involve the actual use of cash. Nonetheless, management believes that these non-GAAP financial measures provide additional insight for investors into the operating results and business trends of the company. Reconciliations of these non-GAAP financial measures are included in schedules to the press release filed with this report.

The information in Item 2.02 of this report and in the exhibit attached hereto is not filed for purposes of Section 18 of the Securities and Exchange Act of 1934, as amended, or otherwise subject to the liabilities of that section or Sections 11 or 12(a)(2) of the Securities Act of 1933, as amended. The information contained in this Item 2.02 and in the accompanying exhibit is not incorporated by reference into any filing with the SEC made by the registrant, whether made before or after the date hereof, regardless of any general incorporation language in such filing.

Item 9.01. Financial Statements and Exhibits.

(c) Exhibits.

The following exhibit is filed as part of this report:

<u>Exhibit No.</u>	<u>Description</u>
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99.1	Epiq Systems, Inc. Press Release issued April 22, 2009, reporting quarter ended March 31, 2009 financial results.
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SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

EPIQ Systems, Inc.

Date: April 22, 2009

By: /s/ TOM W. OLOFSON

Name: Tom W. Olofson

Title: Chairman of the Board and Chief Executive Officer

Epiq Systems, Inc. Announces First Quarter 2009 Results Reporting 20% Operating Revenue Growth

KANSAS CITY, Kan., April 22, 2009 (GLOBE NEWSWIRE) -- Epiq Systems, Inc. (Nasdaq:EPIQ) today announced results of operations for the first quarter of 2009 with operating revenue (total revenue before operating revenue from reimbursed direct costs) of \$52.6 million, up 20% compared to \$43.9 million for the same period last year.

Net income for the first quarter of 2009 was \$3.3 million, \$0.09 per share, up 23% compared to \$2.7 million, \$0.07 per share, for the year ago quarter.

First quarter 2009 net cash provided by operating activities was \$2.5 million compared to \$7.8 million for the year ago quarter. The change is primarily attributable to an increase in accounts receivable. A condensed consolidated cash flow statement is attached.

Epiq Systems' management also evaluates the following non-GAAP financial measures: (i) non-GAAP net income (net income adjusted for amortization of acquisition intangibles, share-based compensation, realized cash gains on financial instruments, non-cash mark-to-market adjustments, acquisition expense, the effect of tax adjustments which are outside of the company's anticipated effective tax rate, and capitalized loan fee amortization, all net of tax), (ii) non-GAAP earnings per share, calculated as non-GAAP net income on a fully diluted per share basis, and (iii) non-GAAP adjusted EBITDA (net income adjusted for interest/financing, taxes, depreciation, amortization, share-based compensation, realized cash gains on financial instruments, non-cash mark-to-market adjustments, and acquisition expense). Reconciliation statements for non-GAAP financial measures are provided below.

Non-GAAP net income for the first quarter of 2009 was \$6.3 million, \$0.16 per share, up 18% compared to \$5.4 million, \$0.14 per share, for the year ago quarter.

First quarter 2009 non-GAAP adjusted EBITDA was \$15.4 million, up 17% compared to \$13.2 million for the year ago quarter.

Operating revenue for the Bankruptcy segment for the first quarter of 2009 was \$17.3 million, up 30% compared to \$13.4 million for the year ago quarter. Non-GAAP adjusted EBITDA was \$8.4 million for the first quarter of 2009 compared to \$10.8 million for the year ago quarter, which included a \$3.5 million cash gain on interest rate floor options. Excluding the prior year one-time cash gain on interest rate floor options, first quarter 2009 non-GAAP adjusted EBITDA increased 15% compared to the year ago quarter. New client engagements for Chapter 11 corporate restructuring bankruptcies were very strong, and first quarter results reflect certain investment spending for increased facilities and staffing to accommodate growth in multi-year large cases. Revenue for Chapter 7 engagements continues to reflect the results of high aggregate deposit balances with influence from pricing formulas that reference short-term interest rates.

Operating revenue for the Electronic Discovery segment for the first quarter of 2009 increased to \$14.0 million compared to \$13.2 million for the year ago quarter. The company incurred investments in the first quarter including organic expansion into data collections and forensics, a new document review service, a new data center and office in Hong Kong, and a new office in Brussels. Including the effects of these investments, first quarter 2009 non-GAAP adjusted EBITDA for Electronic Discovery was \$4.9 million compared to \$6.4 million for the year ago quarter. These first quarter initiatives offer global full lifecycle eDiscovery solutions and further enhance our leadership position in the marketplace, particularly for large, complex litigation emanating from global economic conditions.

Operating revenue for the Settlement Administration segment for the first quarter of 2009 increased to \$21.2 million compared to \$17.3 million in the year ago quarter. Non-GAAP adjusted EBITDA was \$6.8 million for the first quarter of 2009 compared to \$0.7 million for the year ago quarter. The segment continues to benefit from a major contract that was launched in the first quarter of 2008, as well as new client engagements.

Tom W. Olofson, chairman and CEO, and Christopher E. Olofson, president and COO of Epiq Systems, stated, "We are pleased to have achieved our corporate financial objectives for the first quarter and to reiterate our objectives for the year. Conditions in the bankruptcy segment are very strong, and major new retentions have included Lyondell Chemical Company, AbitibiBowater Inc., Nortel Networks and Smurfit-Stone Container Corporation, representing 4 of the 6 largest filings to date in 2009. We believe there will be continued increased bankruptcy filing activity in 2009 across all of Chapters 7, 11 and 13. Our global e-discovery business continues to achieve market leadership with both new service offerings and new international offices in Brussels and Hong Kong. Regulatory compliance, litigation and investigations in the fall-out from the credit crisis are expected to drive expanded requirements for each of our bankruptcy, e-discovery and settlements franchises."

Recent key events include:

- * First quarter Chapter 11 corporate restructuring bankruptcy retentions were up 129% versus the year ago quarter and included clients such as the Lyondell Chemical Company, Nortel Networks

Inc., Smurfit-Stone Container Corporation, Midway Games Inc., Muzak, LLC, and Young Broadcasting Inc.

- * As reported by the Administrative Office of the U.S. Courts, bankruptcy filings totaled 1,117,771 for the 12 month period ending December 31, 2008, up 31% versus the same period in 2007. During this period, Chapter 7 filings were up 43%, Chapter 11 filings were up 60%, and Chapter 13 filings were up 12%.
- * The Federal Reserve reported that both corporate debt and consumer credit increased compared to the prior year, reaching \$7.1 trillion and \$2.6 trillion, respectively, as of December 31, 2008.
- * New e-discovery offices in Hong Kong and Brussels were opened to expand our global presence and support clients more effectively in Asia and continental Europe.
- * E-discovery service offerings were expanded to include data collections, forensics and document review. These integrated services, delivered through our industry-leading DocuMatrix(tm) review platform, offer an optimized, full lifecycle e-discovery solution with significant bottom-line efficiencies for clients.
- * Major releases/upgrades were issued for DocuMatrix(tm) and eDataMatrix(tm), our leading e-discovery and data processing software, providing clients with enhancements to data analysis capabilities which results in improved attorney review throughput and reduced costs.

Conference Call

The company will host a conference call today at 3:30 p.m. central time to discuss these results. The internet broadcast of the call can be accessed at www.epiqsystems.com. To listen by phone, please call (877) 719-9789 before 3:30 p.m. central time. The archive of the internet broadcast will be available on the company's website until the next earnings update. A recording of the call will be available through May 22, 2009 beginning approximately two hours after the call ends. To access the recording, call (888) 203-1112 and enter passcode 8477859.

Company Description

Epiq Systems is a leading global provider of integrated technology solutions for the legal profession. Our solutions streamline the administration of bankruptcy, litigation, financial transactions and regulatory compliance matters. We offer innovative technology solutions for electronic discovery, document review, legal notification, claims administration and controlled disbursement of funds. Our clients include leading law firms, corporate legal departments, bankruptcy trustees and other professional advisors who require innovative technology, responsive service and deep subject-matter expertise.

The Epiq Systems, Inc. logo is available at <http://www.globenewswire.com/newsroom/prs/?pkgid=5250>

Forward-looking and Cautionary Statements

This press release contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act, including those relating to the possible or assumed future results of our operations and financial condition. These forward-looking statements are based on our current expectations and may be identified by terms such as "believe," "expect," "anticipate," "should," "planned," "may," "estimated," "goal," "objective" and "potential." Because forward-looking statements involve future risks and uncertainties, listed below are a variety of factors that could cause actual results and experience to differ materially from the anticipated results or other expectations expressed in our forward-looking statements. These factors include (1) any material changes in our total number of client engagements and the volume associated with each engagement, (2) any material changes in our client's deposit portfolio or the services required or selected by our clients in engagements, (3) material changes in the number of bankruptcy filings, class action filings or mass tort actions each year, (4) risks associated with handling of confidential data and compliance with information privacy laws, (5) changes in or the effects of pricing structures and arrangements, (6) risks associated with the integration of acquisitions into our existing business operations, (7) risks associated with our indebtedness, (8) risks associated with foreign currency fluctuations, (9) risks associated with developing and providing software and internet-based technology solutions to our clients, and (10) other risks detailed from time to time in our SEC filings, including our annual report on Form 10-K. In addition, there may be other factors not included in our SEC filings that may cause actual results to differ materially from any forward-looking statements. We undertake no obligations to update publicly or revise any forward-looking statements contained herein to reflect future events or developments.

EPIQ SYSTEMS, INC.
CONDENSED CONSOLIDATED STATEMENTS OF INCOME
(In thousands, except per share data)
(Unaudited)

	Three Months Ended March 31,	
	2009	2008
	-----	-----
REVENUE:		
Case management services	\$34,534	\$28,796
Case management bundled products and services	3,327	5,291
Document management services	14,752	9,814
	-----	-----
Operating revenue before reimbursed direct costs	52,613	43,901
Operating revenue from reimbursed direct costs	8,215	5,109
	-----	-----
Total Revenue	60,828	49,010
	-----	-----
OPERATING EXPENSES:		
Direct cost of services	19,670	18,827
Direct cost of services - bundled	855	947
Reimbursed direct costs	8,047	5,121
General and administrative	18,307	15,080
Depreciation and software and leasehold amortization	4,514	3,710
Amortization of identifiable intangible assets	1,936	2,278
Other operating expense (income)	471	(2,371)
	-----	-----
Total Operating Expenses	53,800	43,592
	-----	-----
INCOME FROM OPERATIONS	7,028	5,418
	-----	-----
INTEREST EXPENSE (INCOME):		
Interest expense	373	490
Interest income	(35)	(143)
	-----	-----
Net Interest Expense	338	347
	-----	-----
INCOME BEFORE INCOME TAXES	6,690	5,071
PROVISION FOR INCOME TAXES	3,412	2,415
	-----	-----
NET INCOME	\$ 3,278	\$ 2,656
	=====	=====
NET INCOME PER SHARE INFORMATION:		
Net income per share - Diluted	\$ 0.09	\$ 0.07
WEIGHTED AVERAGE COMMON SHARES OUTSTANDING - DILUTED	41,936	41,375

	March 31, 2009	December 31, 2008
	----- (Unaudited)	-----
ASSETS		
ASSETS:		
Cash and cash equivalents	\$ 14,298	\$ 19,006
Trade accounts receivable, net	62,305	48,540
Property and equipment, net	39,915	39,951
Goodwill	263,758	263,871
Other intangibles, net	24,887	26,851
Other	19,761	20,727
	-----	-----
TOTAL ASSETS	\$ 424,924	\$ 418,946
	=====	=====
LIABILITIES AND STOCKHOLDERS' EQUITY		
LIABILITIES:		
Accounts payable	\$ 13,423	\$ 12,781
Indebtedness	59,926	61,222
Other liabilities	45,877	44,448
STOCKHOLDERS' EQUITY	305,698	300,495
	-----	-----
TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY	\$ 424,924	\$ 418,946
	=====	=====

EPIQ SYSTEMS, INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(In thousands)
(Unaudited)

	Three months ended March 31,	
	----- 2009	----- 2008
	-----	-----
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net income	\$ 3,278	\$ 2,656
Non-cash adjustments to net income:		
Depreciation and amortization	6,450	5,988
Other, net	1,602	1,225
Changes in operating assets and liabilities, net	(8,830)	(2,052)
	-----	-----
Net cash provided by operating activities	2,500	7,817
	-----	-----
CASH FLOWS FROM INVESTING ACTIVITIES:		
Property and equipment, software and other	(6,951)	(7,331)
	-----	-----
Net cash used in investing activities	(6,951)	(7,331)
	-----	-----
CASH FLOWS FROM FINANCING ACTIVITIES:		
Net payments on indebtedness	(910)	(606)
Other	664	488
	-----	-----
Net cash used in financing activities	(246)	(118)
	-----	-----
Effect of exchange rate changes on cash	(11)	--

NET (DECREASE) INCREASE IN CASH AND CASH EQUIVALENTS	\$ (4,708)	\$ 368
	=====	=====

EPIQ SYSTEMS, INC.
RECONCILIATION OF NET INCOME TO
NON-GAAP ADJUSTED EBITDA
(In thousands)
(Unaudited)

	Three Months Ended March 31,	
	2009	2008
	-----	-----
NET INCOME	\$ 3,278	\$ 2,656
Plus:		
Depreciation and amortization	6,450	5,988
Share-based compensation	1,472	524
Acquisition expense	489	--
Expenses related to financing, net	338	347
Realized gain on interest rate floors	--	1,273
Provision for income taxes	3,412	2,415
	-----	-----
	12,161	10,547
	-----	-----
NON-GAAP ADJUSTED EBITDA	\$ 15,439	\$ 13,203
	=====	=====

EPIQ SYSTEMS, INC.
BANKRUPTCY SEGMENT
RECONCILIATION OF SEGMENT PERFORMANCE MEASURE TO
NON-GAAP ADJUSTED EBITDA
(In thousands)
(Unaudited)

	Three Months Ended March 31,	
	2009	2008
	-----	-----
SEGMENT PERFORMANCE MEASURE	\$ 8,421	\$ 7,299
Realized gain on interest rate floors	--	3,465
	-----	-----
NON-GAAP ADJUSTED EBITDA	\$ 8,421	\$ 10,764
	=====	=====

EPIQ SYSTEMS, INC.
RECONCILIATION OF NET INCOME TO
NON-GAAP NET INCOME
(In thousands)
(Unaudited)

Three Months Ended
March 31,

	2009	2008
	-----	-----
NET INCOME	\$ 3,278	\$ 2,656
Plus (net of tax):		
Amortization of acquisition intangibles	1,171	1,378
Share-based compensation	1,054	345
Acquisition expense	296	--
Effective tax rate	736	387
Loan fee amortization	52	80
Mark-to-market adjustments	(244)	(244)
Realized gain on interest rate floors	--	770
	-----	-----
	3,065	2,716
	-----	-----
NON-GAAP NET INCOME	\$ 6,343	\$ 5,372
	=====	=====

EPIQ SYSTEMS, INC.
RECONCILIATION OF EPS TO
NON-GAAP EPS
(Unaudited)

	Three Months Ended March 31,	
	-----	-----
	2009	2008
	-----	-----
EPS (on a diluted basis)	\$ 0.09	\$ 0.07
Plus (net of tax):		
Amortization of acquisition intangibles	0.03	0.04
Share-based compensation	0.02	0.01
Acquisition expense	0.01	--
Effective tax rate	0.02	0.01
Loan fee amortization	--	--
Mark-to-market adjustments	(0.01)	(0.01)
Realized gain on interest rate floors	--	0.02
	-----	-----
	0.07	0.07
	-----	-----
NON-GAAP EPS (on a diluted basis)	\$ 0.16	\$ 0.14
	=====	=====

EPIQ SYSTEMS, INC.
EPS CALCULATION
(In thousands, except per share data)
(Unaudited)

	Three Months Ended March 31,	
	-----	-----
	2009	2008
	-----	-----
NET INCOME	\$ 3,278	\$ 2,656
Interest expense adjustment for convertible debt	298	301
Net income re-allocated to nonvested shares	(10)	--
	-----	-----
NET INCOME ADJUSTED FOR DILUTED CALCULATION	\$ 3,566	\$ 2,957
	=====	=====

NON-GAAP NET INCOME	\$ 6,343	\$ 5,372
Interest expense adjustment for convertible debt	298	301
	-----	-----
NON-GAAP NET INCOME ADJUSTED FOR DILUTED CALCULATION	\$ 6,641	\$ 5,673
	=====	=====
BASIC WEIGHTED AVERAGE SHARES	35,686	35,291
Adjustment to reflect share-based awards	1,964	1,798
Adjustment to reflect convertible debt shares	4,286	4,286
	-----	-----
DILUTED WEIGHTED AVERAGE SHARES	41,936	41,375
	=====	=====
NET INCOME PER SHARE - DILUTED	\$ 0.09	\$ 0.07
	=====	=====
NON-GAAP NET INCOME PER SHARE - DILUTED	\$ 0.16	\$ 0.14
	=====	=====

CONTACT: Epiq Systems, Inc.
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