

REX AMERICAN RESOURCES Corp  
Form 10-Q  
December 09, 2010

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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549**

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**FORM 10-Q**

(Mark One)

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

For the quarterly period ended October 31, 2010

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 Number 001-09097

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**REX AMERICAN RESOURCES CORPORATION**

(Exact name of registrant as specified in its charter)

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

**31-1095548**  
(I.R.S. Employer  
Identification Number)

**2875 Needmore Road, Dayton, Ohio**  
(Address of principal executive offices) **45414**  
(Zip Code)  
**(937) 276-3931**

(Registrant's telephone number, including area code)

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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

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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 whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See definition of "large accelerated filer", "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer  (Do not check if a smaller reporting company)

Smaller reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes  No

At the close of business on December 8, 2010 the registrant had 9,489,944 shares of Common Stock, par value \$.01 per share, outstanding.

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REX AMERICAN RESOURCES CORPORATION AND SUBSIDIARIES

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## PART I. FINANCIAL INFORMATION

## Item 1. Financial Statements

## REX AMERICAN RESOURCES CORPORATION AND SUBSIDIARIES

## Consolidated Condensed Balance Sheets

## Unaudited

	October 31, 2010	January 31, 2010
	<u>          </u>	<u>          </u>
	(In Thousands)	
Assets		
Current assets:		
Cash and cash equivalents	\$ 87,563	\$ 100,398
Accounts receivable, net	12,242	9,123
Inventory, net	10,546	8,698
Refundable income taxes	7,442	12,813
Prepaid expenses and other	3,846	2,691
Deferred taxes, net	5,000	6,375
	<u>          </u>	<u>          </u>
Total current assets	126,639	140,098
Property and equipment, net	231,101	246,874
Other assets	7,035	8,880
Deferred taxes, net	4,282	8,468
Equity method investments	64,360	44,071
Investments in debt instruments		1,014
Restricted investments and deposits	1,600	2,100
	<u>          </u>	<u>          </u>
Total assets	<u>\$ 435,017</u>	<u>\$ 451,505</u>
Liabilities and equity:		
Current liabilities:		
Current portion of long-term debt and capital lease obligations, alternative energy	\$ 13,160	\$ 12,935
Current portion of long-term debt, other	336	371
Accounts payable, trade	7,060	6,976
Deferred income	4,804	7,818
Accrued restructuring charges	444	511
Accrued real estate taxes	1,526	2,968
Derivative financial instruments	2,101	1,829
Other current liabilities	6,360	5,442
	<u>          </u>	<u>          </u>
Total current liabilities	35,791	38,850
	<u>          </u>	<u>          </u>
Long-term liabilities:		
Long-term debt and capital lease obligations, alternative energy	103,167	124,093
Long-term debt, other	2,011	2,596
Deferred income	3,125	6,396
Derivative financial instruments	4,482	4,055
Other	4,822	419
	<u>          </u>	<u>          </u>
Total long-term liabilities	117,607	137,559
	<u>          </u>	<u>          </u>
Equity:		
REX shareholders' equity:		
Common stock	299	299
Paid-in capital	142,270	141,698

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Retained earnings	300,656	290,984
Treasury stock	(192,207)	(186,407)
Accumulated other comprehensive income, net of tax		49
	<hr/>	<hr/>
Total REX shareholders' equity	251,018	246,623
Noncontrolling interests	30,601	28,473
	<hr/>	<hr/>
Total equity	281,619	275,096
	<hr/>	<hr/>
Total liabilities and equity	\$ 435,017	\$ 451,505
	<hr/>	<hr/>

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

**REX AMERICAN RESOURCES CORPORATION AND SUBSIDIARIES**  
**Consolidated Condensed Statements Of Operations**  
**Unaudited**

	Three Months Ended October 31,		Nine Months Ended October 31,	
	2010	2009	2010	2009
(In Thousands, Except Per Share Amounts)				
Net sales and revenue	\$ 70,343	\$ 61,679	\$ 206,738	\$ 93,061
Cost of sales	63,538	55,880	186,516	86,179
Gross profit	6,805	5,799	20,222	6,882
Selling, general and administrative expenses	(1,929)	(1,540)	(5,923)	(3,701)
Interest income	121	92	408	356
Interest expense	(1,375)	(1,642)	(4,135)	(3,116)
Loss on early termination of debt			(48)	(113)
Equity in income of unconsolidated ethanol affiliates	3,694	1,221	7,625	1,144
Other income	116	766	117	766
Losses on derivative financial instruments, net	(495)	(899)	(2,538)	(1,561)
Income from continuing operations before provision for income taxes and discontinued operations	6,937	3,797	15,728	657
Provision for income taxes	(2,538)	(1,140)	(5,730)	(348)
Income from continuing operations including noncontrolling interests	4,399	2,657	9,998	309
Income from discontinued operations, net of tax	546	628	1,593	1,144
Gain on disposal of discontinued operations, net of tax	156		209	123
Net income including noncontrolling interests	5,101	3,285	11,800	1,576
Net income attributable to noncontrolling interests	(851)	(1,012)	(2,128)	(195)
Net income attributable to REX common shareholders	\$ 4,250	\$ 2,273	\$ 9,672	\$ 1,381
Weighted average shares outstanding basic	9,541	9,161	9,723	9,229
Basic income per share from continuing operations attributable to REX common shareholders	\$ 0.37	\$ 0.18	\$ 0.81	\$ 0.01
Basic income per share from discontinued operations attributable to REX common shareholders	0.06	0.07	0.16	0.13
Basic income per share on disposal of discontinued operations attributable to REX common shareholders	0.02		0.02	0.01
Basic net income per share attributable to REX common shareholders	\$ 0.45	\$ 0.25	\$ 0.99	\$ 0.15
Weighted average shares outstanding diluted	9,682	9,464	9,900	9,478
Diluted income per share from continuing operations attributable to REX common shareholders	\$ 0.36	\$ 0.17	\$ 0.80	\$ 0.01
	0.06	0.07	0.16	0.13

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Diluted income per share from discontinued operations attributable to REX common shareholders

Diluted income per share on disposal of discontinued operations attributable to REX common shareholders

	0.02		0.02	0.01
	<u>0.44</u>	<u>0.24</u>	<u>0.98</u>	<u>0.15</u>

Diluted net income per share attributable to REX common shareholders

Amounts attributable to REX common shareholders:

Income from continuing operations, net of tax	\$ 3,548	\$ 1,645	\$ 7,870	\$ 114
Income from discontinued operations, net of tax	702	628	1,802	1,267
Net income	<u>\$ 4,250</u>	<u>\$ 2,273</u>	<u>\$ 9,672</u>	<u>\$ 1,381</u>

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

**REX AMERICAN RESOURCES CORPORATION AND SUBSIDIARIES**  
**Consolidated Condensed Statements Of Equity**  
**Unaudited**  
(In Thousands)

**REX Shareholders**

<b>Common Shares Issued</b>		<b>Treasury</b>		<b>Paid-in Capital</b>	<b>Retained Earnings</b>	<b>Accumulated Other Comprehensive Income</b>	<b>Noncontrolling Interests</b>	<b>Total Equity</b>
<b>Shares</b>	<b>Amount</b>	<b>Shares</b>	<b>Amount</b>					

Balance at January 31, 2010	29,853	\$	299					
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**DESCRIPTION OF CAPITAL STOCK**

For a description of our Class A common stock, see the description contained in our Registration Statement on Form 10, filed with the SEC on July 7, 2004, which is incorporated herein by reference.

**LEGAL MATTERS**

The validity of the shares of Class A common stock offered hereby will be passed upon for us by Cleary Gottlieb Steen & Hamilton LLP, New York, New York.

**EXPERTS**

Ernst & Young LLP, independent registered public accounting firm, have audited our consolidated financial statements and schedule included in our Annual Report on Form 10-K for the year ended December 31, 2009, and the effectiveness of our internal control over financial reporting as of December 31, 2009, as set forth in their reports, which are incorporated by reference in this prospectus and elsewhere in this registration statement. Our consolidated financial statements and schedule are incorporated by reference in reliance on Ernst & Young LLP's reports, given on their authority as experts in accounting and auditing.

**INFORMATION INCORPORATED BY REFERENCE**

The following documents previously filed with the SEC are hereby incorporated by reference in this prospectus (other than filings or portions of filings that are either (i) described in paragraph (d)(1), (d)(2), (d)(3) or (e)(5) of Item 407 of Regulation S-K promulgated by the SEC or (ii) furnished under applicable SEC rules rather than filed):

our Annual Report on Form 10-K for the fiscal year ended December 31, 2009, filed with the SEC on February 12, 2010 (the Annual Report );

our Quarterly Report on Form 10-Q for the quarter ended March 31, 2010, filed with the SEC on May 5, 2010;

the information specifically incorporated by reference into the Annual Report from our definitive proxy statement on Schedule 14A, filed with the SEC on March 29, 2010;

our Current Reports on Form 8-K, filed with the SEC on January 13, 2010, January 19, 2010, January 21, 2010 (with respect only to Item 8.01), January 22, 2010, March 5, 2010, April 15, 2010 (with respect only to Item 8.01) and May 17, 2010; and

the description of our Class A common stock contained in our Registration Statement on Form 10, filed with the SEC on July 7, 2004 pursuant to Section 12(g) of the Exchange Act and effective as of June 28, 2004.

All reports and other documents subsequently filed by us pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act after the date of this prospectus and prior to the termination of this offering shall be deemed to be incorporated by reference in this prospectus and to be part hereof from the date of filing of such reports and other documents. However, we are not incorporating by reference any information provided in these documents that is described in paragraph (d)(1), (d)(2), (d)(3) or (e)(5) of Item 407 of Regulation S-K promulgated by the SEC or furnished under applicable SEC rules rather than filed.

Google Inc. hereby undertakes to provide without charge to each person, including any beneficial owner, to whom a copy of this prospectus is delivered, upon written or oral request of any such person, a copy of any or all of the information that has been or may be incorporated by reference in this prospectus, excluding all exhibits unless an exhibit has been specifically incorporated by reference into this prospectus. Requests for such copies should be directed to our Investor Relations department, at the following address:

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Google Inc.

1600 Amphitheatre Parkway

Mountain View, California 94043

(650) 253-0000

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**WHERE YOU CAN FIND ADDITIONAL INFORMATION**

We file annual, quarterly and current reports and other information with the SEC. You may read and copy any materials we file at the SEC's Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549. Please call the SEC at 1-888-SEC-0330 for further information about the Public Reference Room. The SEC also maintains an internet website at [www.sec.gov](http://www.sec.gov) that contains periodic and current reports, proxy and information statements, and other information regarding registrants that file electronically with the SEC.

Our internet address is [www.google.com](http://www.google.com) and the investor relations section of our website is located at <http://investor.google.com>. We make available free of charge, on or through the investor relations section of our website, Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Exchange Act as soon as reasonably practicable after we electronically file such material with, or furnish it to, the SEC. The information on, or accessible through, our websites that is not specifically incorporated by reference herein is not a part of this prospectus.

You should rely only on the information contained or incorporated by reference in this prospectus and in any accompanying prospectus supplement. We have not authorized anyone to provide you with information different from that contained in this prospectus. The shares of Class A common stock offered under this prospectus are offered only in jurisdictions where offers and sales are permitted. The information contained in this prospectus is accurate only as of the date of this prospectus, regardless of the time of delivery of this prospectus or any sale of the Class A common stock.

This prospectus is part of a registration statement that we filed with the SEC, using a shelf registration process under the Securities Act. Under the shelf registration process, certain selling stockholders may offer from time to time up to an aggregate of 1,076,123 shares of Class A common stock received by them directly or indirectly from Google Inc. in our acquisition of AdMob, Inc. This prospectus does not contain all of the information set forth in the registration statement, certain parts of which are omitted in accordance with the rules and regulations of the SEC. For further information with respect to Google Inc. and the shares of our Class A common stock, reference is hereby made to the registration statement. The registration statement, including the exhibits thereto, may be inspected at the Public Reference Room maintained by the SEC at the address set forth above. Statements contained herein concerning any document filed as an exhibit are not necessarily complete, and, in each instance, reference is made to the copy of such document filed as an exhibit to the registration statement. Each such statement is qualified in its entirety by such reference.

**Table of Contents****PART II****INFORMATION NOT REQUIRED IN PROSPECTUS****Item 14. Other Expenses of Issuance and Distribution.**

The following table sets forth fees and expenses payable by the registrant in connection with the issuance and distribution of the shares of Class A common stock being registered hereby. All amounts set forth below are estimates.

	<b>Amount to Be Paid</b>
Commission registration fee	\$ 37,686
Printing fees	5,000
Legal fees and expenses	150,000
Accounting fees and expenses	10,000
Miscellaneous	5,000
<b>Total</b>	<b>\$ 207,686</b>

**Item 15. Indemnification of Officers and Directors.**

As of the date of this filing, Section 145 of the Delaware General Corporation Law provides in regard to indemnification of directors and officers as follows:

**145 INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS; INSURANCE.**

(a) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation) by reason of the fact that the person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with such action, suit or proceeding if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe the person's conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that the person's conduct was unlawful.

(b) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that the person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by the person in connection with the defense or settlement of such action or suit if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

(c) To the extent that a present or former director or officer of a corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in subsections (a) and (b) of this section, or in defense of any claim, issue or matter therein, such person

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shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith.

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(d) Any indemnification under subsections (a) and (b) of this section (unless ordered by a court) shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the present or former director, officer, employee or agent is proper in the circumstances because the person has met the applicable standard of conduct set forth in subsections (a) and (b) of this section. Such determination shall be made, with respect to a person who is a director or officer at the time of such determination, (1) by a majority vote of the directors who are not parties to such action, suit or proceeding, even though less than a quorum, or (2) by a committee of such directors designated by majority vote of such directors, even though less than a quorum, or (3) if there are no such directors, or if such directors so direct, by independent legal counsel in a written opinion, or (4) by the stockholders.

(e) Expenses (including attorneys' fees) incurred by an officer or director in defending any civil, criminal, administrative or investigative action, suit or proceeding may be paid by the corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such director or officer to repay such amount if it shall ultimately be determined that such person is not entitled to be indemnified by the corporation as authorized in this section. Such expenses (including attorneys' fees) incurred by former directors and officers or other employees and agents may be so paid upon such terms and conditions, if any, as the corporation deems appropriate.

(f) The indemnification and advancement of expenses provided by, or granted pursuant to, the other subsections of this section shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office. A right to indemnification or to advancement of expenses arising under a provision of the certificate of incorporation or a bylaw shall not be eliminated or impaired by an amendment to such provision after the occurrence of the act or omission that is the subject of the civil, criminal, administrative or investigative action, suit or proceeding for which indemnification or advancement of expenses is sought, unless the provision in effect at the time of such act or omission explicitly authorizes such elimination or impairment after such action or omission has occurred.

(g) A corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the corporation would have the power to indemnify such person against such liability under this section.

(h) For purposes of this section, references to the corporation shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, and employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under this section with respect to the resulting or surviving corporation as such person would have with respect to such constituent corporation if its separate existence had continued.

(i) For purposes of this section, references to other enterprises shall include employee benefit plans; references to fines shall include any excise taxes assessed on a person with respect to any employee benefit plan; and references to serving at the request of the corporation shall include any service as a director, officer, employee or agent of the corporation which imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner such person reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner not opposed to the best interests of the corporation as referred to in this section.

(j) The indemnification and advancement of expenses provided by, or granted pursuant to, this section shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

(k) The Court of Chancery is hereby vested with exclusive jurisdiction to hear and determine all actions for advancement of expenses or indemnification brought under this section or under any bylaw, agreement, vote of stockholders or disinterested directors, or otherwise. The Court of Chancery may summarily determine a corporation's obligation to advance expenses (including attorneys' fees).

As permitted by Section 145 of the Delaware General Corporation Law, the registrant's third amended and restated certificate of incorporation (the certificate of incorporation) includes a provision that eliminates the personal liability of its directors for monetary damages for breach of their fiduciary duty as directors.



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In addition, as permitted by Section 145 of the Delaware General Corporation Law, the amended and restated bylaws of the registrant (the bylaws ) provide that:

The registrant will indemnify its directors and officers for serving the registrant in those capacities or for serving other business enterprises at the registrant's request, to the fullest extent permitted by Delaware law, if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the registrant, and, with respect to any criminal proceeding, had no reasonable cause to believe such person's conduct was unlawful.

The registrant may, in its discretion, indemnify employees and agents in those circumstances where indemnification is not required by law.

The registrant is required to advance expenses, as incurred, to its directors and officers in connection with defending a proceeding, except that such director or officer will undertake to repay such advances if it is ultimately determined that such person is not entitled to indemnification.

The registrant will not be obligated pursuant to the bylaws to indemnify a person with respect to proceedings initiated by that person, except with respect to proceedings authorized by the registrant's board of directors or brought to enforce a right to indemnification.

The rights conferred in the bylaws are not exclusive, and the registrant is authorized to enter into indemnification agreements with its directors, officers, employees and agents and to obtain insurance to indemnify such persons.

The registrant may not retroactively amend or repeal the bylaw or certificate of incorporation provisions to reduce its indemnification obligations to directors, officers, employees and agents.

The registrant's policy is to enter into separate indemnification agreements with each of its directors and executive officers that provide the maximum indemnity allowed to directors and executive officers by Section 145 of the Delaware General Corporation Law and that allow for certain additional procedural protections. The registrant also maintains directors and officers insurance to insure such persons against certain liabilities.

The registration rights agreement between the registrant and certain investors provides for cross-indemnification in connection with registration of the registrant's Class A common stock on behalf of such investors.

These indemnification provisions and the indemnification agreements entered into between the registrant and its officers and directors may be sufficiently broad to permit indemnification of the registrant's officers and directors for liabilities (including reimbursement of expenses incurred) arising under the Securities Act.

In connection with an offering of the Class A common stock registered hereunder, the registrant may enter into an underwriting agreement which may provide that the underwriters are obligated, under certain circumstances, to indemnify directors, officers and controlling persons of the registrant against certain liabilities, including liabilities under the Securities Act.



**Table of Contents****Item 16. Exhibits and Financial Statement Schedules.**

The following exhibits are included herein or incorporated herein by reference:

**EXHIBIT INDEX**

<b>Exhibit Number</b>	<b>Description</b>	<b>Incorporated by reference herein From</b>	<b>Date</b>
1.01	Form of Underwriting Agreement *		
3.01	Third Amended and Restated Certificate of Incorporation of registrant as filed August 24, 2004	Registration Statement on Form S-1, as amended (File No. 333-114984)	August 9, 2004
3.02	Amended and Restated Bylaws of registrant, effective as of August 24, 2004	Registration Statement on Form S-1, as amended (File No. 333-114984)	August 9, 2004
4.01	Registration Rights Agreement dated as of November 7, 2009	Filed herewith	
4.02	Specimen Class A Common Stock Certificate	Registration Statement on Form S-1, as amended (File No. 333-114984)	August 18, 2004
5.01	Opinion of Cleary Gottlieb Steen & Hamilton LLP	Filed herewith	
23.01	Consent of Independent Registered Public Accounting Firm	Filed herewith	
23.02	Consent of Cleary Gottlieb Steen & Hamilton LLP (included in Exhibit 5.01 to this Registration Statement)	Filed herewith	
24.01	Power of Attorney (incorporated by reference to the signature page of this Registration Statement)	Filed herewith	

\* To be filed by amendment or as an exhibit to a document to be incorporated by reference, if applicable.

**Item 17. Undertakings.**

(a) The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in the volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the

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low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Securities and Exchange Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective registration statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement; *provided, however*, that paragraphs (i), (ii) and (iii) above do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Securities and Exchange Commission by the registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement, or is contained in a form of prospectus filed pursuant to Rule 424(b) that is part of the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

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(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(4) That, for the purpose of determining liability under the Securities Act of 1933 to any purchaser:

- (i) Each prospectus filed by the registrant pursuant to Rule 424(b)(3) shall be deemed to be part of the registration statement as of the date the filed prospectus was deemed part of and included in the registration statement; and
- (ii) Each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5), or (b)(7) as part of a registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii), or (x) for the purpose of providing the information required by Section 10(a) of the Securities Act of 1933 shall be deemed to be part of and included in the registration statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the registration statement relating to the securities in the registration statement to which that prospectus relates, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof. *Provided, however,* that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such effective date, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such effective date.

(5) That, for the purpose of determining liability of the registrant under the Securities Act of 1933 to any purchaser in the initial distribution of the securities, the undersigned registrant undertakes that in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

- (i) Any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424;
- (ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant;
- (iii) The portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and
- (iv) Any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.

(b) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report, pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers or controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a

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director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Exchange Act and will be governed by the final adjudication of such issue.

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

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Mountain View, State of California, on June 25, 2010.

GOOGLE INC.

By: */s/* ERIC E. SCHMIDT  
**Eric E. Schmidt**  
**Chairman of the Board of Directors**  
  
**and Chief Executive Officer**

**POWER OF ATTORNEY**

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints Eric E. Schmidt and Patrick Pichette, and each of them acting individually, as his attorney in fact, each with full power of substitution, for him in any and all capacities, to sign any and all amendments to this Registration Statement on Form S-3, and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that said attorney-in-fact, or his or her substitutes, may do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities indicated:

<b>Signature</b>	<b>Title</b>	<b>Date</b>
<i>/s/</i> ERIC E. SCHMIDT <b>Eric E. Schmidt</b>	Chairman of the Board of Directors and Chief Executive Officer ( <i>Principal Executive Officer</i> )	June 25, 2010
<i>/s/</i> PATRICK PICHETTE <b>Patrick Pichette</b>	Senior Vice President and Chief Financial Officer ( <i>Principal Financial and Accounting Officer</i> )	June 25, 2010
<b>Sergey Brin</b>	President of Technology and Director	
<i>/s/</i> LARRY PAGE <b>Larry Page</b>	President of Products and Director	June 25, 2010
<i>/s/</i> L. JOHN DOERR <b>L. John Doerr</b>	Director	June 25, 2010
<i>/s/</i> JOHN L. HENNESSY <b>John L. Hennessy</b>	Director	June 25, 2010
<i>/s/</i> ANN MATHER <b>Ann Mather</b>	Director	June 25, 2010
<i>/s/</i> PAUL S. OTELLINI <b>Paul S. Otellini</b>	Director	June 25, 2010
<i>/s/</i> K. RAM SHRIRAM <b>K. Ram Shriram</b>	Director	June 25, 2010
<i>/s/</i> SHIRLEY M. TILGHMAN <b>Shirley M. Tilghman</b>	Director	June 25, 2010



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<b>Exhibit Number</b>	<b>Description</b>	<b>Incorporated by reference herein</b>	
		<b>From</b>	<b>Date</b>
1.01	Form of Underwriting Agreement *		
3.01	Third Amended and Restated Certificate of Incorporation of registrant as filed August 24, 2004	Registration Statement on Form S-1, as amended (File No. 333-114984)	August 9, 2004
3.02	Amended and Restated Bylaws of registrant, effective as of August 24, 2004	Registration Statement on Form S-1, as amended (File No. 333-114984)	August 9, 2004
4.01	Registration Rights Agreement dated as of November 7, 2009	Filed herewith	
4.02	Specimen Class A Common Stock Certificate	Registration Statement on Form S-1, as amended (File No. 333-114984)	August 18, 2004
5.01	Opinion of Cleary Gottlieb Steen & Hamilton LLP	Filed herewith	
23.01	Consent of Independent Registered Public Accounting Firm	Filed herewith	
23.02	Consent of Cleary Gottlieb Steen & Hamilton LLP (included in Exhibit 5.01 to this Registration Statement)	Filed herewith	
24.01	Power of Attorney (incorporated by reference to the signature page of this Registration Statement)	Filed herewith	

\* To be filed by amendment or as an exhibit to a document to be incorporated by reference, if applicable.