

ACACIA RESEARCH CORP  
Form 10-K  
February 28, 2013

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

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FORM 10-K

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

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

FOR THE TRANSITION PERIOD FROM            TO            .

Commission File Number 0-26068

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(Exact name of registrant as specified in its charter)

DELAWARE (State or other jurisdiction of incorporation organization)	95-4405754 (I.R.S. Employer Identification No.)
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500 NEWPORT CENTER DRIVE, NEWPORT BEACH, CA (Address of principal executive offices)	92660 (Zip Code)
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Registrant's telephone number, including area code: (949) 480-8300

Securities registered pursuant to Section 12(b) of the Act:

Title of Each Class	Name of Each Exchange on Which Registered
Common Stock, \$0.001 par value	The NASDAQ Stock Market, LLC

Securities registered pursuant to Section 12(g) of the Act: None

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

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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 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 (§232.405 of this chapter) 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 the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Accelerated filer

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

Smaller reporting company

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 registrant's voting and non-voting common stock held by non-affiliates of the registrant on June 30, 2012, the last business day of the registrant's most recently completed second fiscal quarter, computed by reference to the last sale price of the registrant's common stock as reported by The Nasdaq Global Select Market on such date, was approximately \$1,808,241,000. This computation assumes that all executive officers, directors and persons known to the registrant to be the beneficial owners of more than ten percent of the registrant's common stock are affiliates of the registrant. Such assumption should not be deemed conclusive for any other purpose.

As of February 25, 2013, 49,205,557 shares of common stock were issued and outstanding.

#### DOCUMENTS INCORPORATED BY REFERENCE

In accordance with General Instruction G(3) to Form 10-K, portions of the registrant's Definitive Proxy Statement on Schedule 14A for its Annual Meeting of Stockholders to be filed with the Commission within 120 days after the close of the fiscal year covered by this Annual Report on Form 10-K are incorporated by reference into Part III of this Annual Report on Form 10-K. Only those portions of the proxy statement that are specifically incorporated by reference herein shall constitute a part of this Annual Report on Form 10-K.

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ACACIA RESEARCH CORPORATION  
 ANNUAL REPORT ON FORM 10-K  
 FISCAL YEAR ENDED DECEMBER 31, 2012  
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## PART I

### CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

As used in this Annual Report on Form 10-K, “we,” “us” and “our” refer to Acacia Research Corporation and/or its wholly and majority-owned operating subsidiaries. All intellectual property acquisition, development, licensing and enforcement activities are conducted solely by certain of our wholly owned operating subsidiaries.

This Annual Report on Form 10-K, or the annual report, contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, or the Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act, which include, without limitation, statements about our future business operations and results, our strategies and competition, and other forward-looking statements included in this annual report. Such statements may be identified by the use of forward-looking terminology such as “may,” “will,” “expect,” “believe,” “estimate,” “anticipate,” “intend,” “continue,” or similar terms, variations of such terms or the negative of terms. Such statements are based on management’s current expectations and are subject to a number of risks and uncertainties, which could cause actual results to differ materially from those described in the forward-looking statements. Such statements address future events and conditions concerning earnings, capital expenditures, litigation, competition, regulatory matters, stock price volatility, liquidity and capital resources and accounting matters. Actual results in each case could differ materially from those anticipated in such statements by reason of factors such as future economic conditions, legislative, regulatory and competitive developments in markets in which we and our subsidiaries operate, and other circumstances affecting anticipated revenues and costs, as more fully disclosed in our discussion of “Risk Factors” in Item 1A of Part I of this annual report. We expressly disclaim any obligation or undertaking to release publicly any updates or revisions to any forward-looking statements contained herein to reflect any change in our expectations with regard thereto or any change in events, conditions or circumstances on which any such statement is based. Additional factors that could cause such results to differ materially from those described in the forward-looking statements are set forth in connection with the forward-looking statements.

## ITEM 1. BUSINESS

### General

Our operating subsidiaries acquire, develop, license and enforce patented technologies. Our operating subsidiaries generate revenues and related cash flows from the granting of intellectual property rights for the use of patented technologies that our operating subsidiaries own or control. Our operating subsidiaries assist patent owners with the prosecution and development of their patent portfolios, the protection of their patented inventions from unauthorized use, the generation of licensing revenue from users of their patented technologies and, if necessary, with the enforcement against unauthorized users of their patented technologies.

We are a leader in licensing patented technologies and have established a proven track record of licensing success with over 1,225 license agreements executed to date, across 143 of our technology licensing programs. Currently, on a consolidated basis, our operating subsidiaries own or control the rights to over 250 patent portfolios, which include U.S. patents and certain foreign counterparts covering technologies used in a wide variety of industries.

### Other

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We were originally incorporated in California in January 1993 and reincorporated in Delaware in December 1999. Our website address is [www.acaciaresearch.com](http://www.acaciaresearch.com). Reference in this annual report to this website address does not constitute incorporation by reference of the information contained on the website. We make our filings with the Securities and Exchange Commission, or the SEC, including our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, other reports filed or furnished pursuant to Section 13(a) or 15(d) of the Exchange Act, and amendments to the foregoing reports, available free of charge on or through our website as soon as reasonably practicable after we file these reports with, or furnish such reports to, the SEC. In addition, we post the following information on our website:

- our corporate code of conduct, our code of conduct for our board of directors and our fraud policy; and
- charters for our audit committee, nominating and corporate governance committee, disclosure committee and compensation committee.

The public may read and copy any materials that we file with the SEC at the SEC's Public Reference Room at 100 F

Street, NE, Washington, D.C. 20549. The public may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330.

Also, the SEC maintains an Internet website that contains reports, proxy and information statements, and other information regarding issuers, including us, that file electronically with the SEC. The public can obtain any documents that we file with the SEC at <http://www.sec.gov>.

### Intellectual Property Licensing Business

Our operating subsidiaries acquire, develop, license and enforce patented technologies. Our operating subsidiaries generate revenues and related cash flows from the granting of intellectual property rights for the use of patented technologies that our operating subsidiaries own or control. Our operating subsidiaries assist patent owners with the prosecution and development of their patent portfolios, the protection of their patented inventions from unauthorized use, the generation of licensing revenue from users of their patented technologies and, if necessary, with the enforcement against unauthorized users of their patented technologies. Currently, on a consolidated basis, our operating subsidiaries own or control the rights to over 250 patent portfolios, which include U.S. patents and certain foreign counterparts, covering technologies used in a wide variety of industries. Refer to the section entitled "Patented Technologies" below for a partial summary of patent portfolios owned or controlled by certain of our operating subsidiaries.

We are a leader in patent licensing and our operating subsidiaries have established a proven track record of licensing success with more than 1,225 license agreements executed to date. To date, on a consolidated basis, we have generated revenues from 143 of our technology licensing and enforcement programs. Our professional staff includes in-house patent attorneys, licensing executives, engineers and business development executives.

Our partners include individual inventors and small technology companies who have limited resources and/or expertise to effectively address the unauthorized use of their patented technologies, and also include research laboratories, universities, and large technology companies seeking to effectively and efficiently monetize their portfolio of patented technologies. In a typical arrangement, our operating subsidiary will acquire a patent portfolio or acquire rights to a patent portfolio, and in exchange, the original patent portfolio owner receives (i) an upfront payment for the purchase of the patent portfolio or patent portfolio rights, or (ii) a percentage of our operating subsidiary's net recoveries from the licensing and enforcement of the patent portfolio, or (iii) a combination of the two.

Under U.S. law, an inventor or patent owner has the right to exclude others from making, selling or using their patented invention. Unfortunately, in the majority of cases, infringers are generally unwilling, at least initially, to negotiate or pay reasonable royalties for their unauthorized use of third-party patents and will typically fight any allegations of patent infringement. Inventors and/or patent holders without sufficient legal, financial and/or expert technical resources to bring and continue the pursuit of legal action may lack credibility in dealing with unwilling licensees, and as a result, are often blatantly ignored.

As a result of the common reluctance of patent infringers to negotiate and ultimately take a patent license for the use of third-party patented technologies without at least the threat of legal action, patent licensing and enforcement often begins with the filing of patent enforcement litigation. However, the majority of patent infringement contentions settle out of court, based on the strength of the patent claims, validity, and persuasive evidence and clarity that the patent is being infringed.

We execute patent licensing and intellectual property rights arrangements with users of our patented technologies through willing negotiations without the filing of patent infringement litigation, or through the negotiation of a patent license and intellectual property rights and settlement arrangements in connection with the filing of patent infringement litigation.

## Business Model and Strategy - Overview

The business model associated with the licensing and enforcement activities conducted by our operating subsidiaries is summarized in the following illustration:

### Key Elements of Business Strategy

Our intellectual property acquisition, development, licensing and enforcement business strategy, conducted solely by our operating subsidiaries, includes the following key elements:

#### Identify Emerging Growth Areas where Patented Technologies will Play a Vital Role

The patent process breeds, encourages and sustains innovation and invention by granting a limited monopoly to the inventor in exchange for sharing the invention with the public. Certain technologies, including several of the technologies controlled by our operating subsidiaries, some of which are summarized below, become core technologies in the way products and services are manufactured, sold and delivered by companies across a wide array of industries. Our operating subsidiaries identify core, patented technologies that have been or are anticipated to be widely adopted by third parties in connection with the manufacture or sale of products and services.

#### Contact and Form Alliances with Owners of Core, Patented Technologies

Often individual inventors and small companies have limited resources and/or expertise and are unable to effectively address the unauthorized use of their patented technologies. Individual inventors and small companies may lack sufficient capital resources and may also lack in-house personnel with patent licensing and/or enforcement expertise or experience, which may make it difficult to effectively and efficiently out-license and/or enforce their patented technologies.

For years, many large companies have earned substantial revenue licensing patented technologies to third parties. Other companies that do not have internal licensing resources and expertise may have continued to record the capitalized carrying value of their core and/or non-essential intellectual property in their financial statements, without deriving income from their intellectual property or realizing the potential value of their intellectual property assets. Securities and financial reporting regulations require these companies to periodically evaluate and potentially reduce or write-off these intellectual property assets if they are unable to substantiate these reported carrying values.



Our operating subsidiaries seek to enter into business agreements with owners of intellectual property that do not have experience or expertise in the areas of intellectual property licensing and enforcement, or that do not possess the in-house resources to devote to intellectual property licensing and enforcement activities, or that, for any number of strategic business reasons, desire to more efficiently and effectively outsource their intellectual property licensing and enforcement activities.

#### Effectively and Efficiently Evaluate Patented Technologies for Acquisition, Licensing and Enforcement

Subtleties in the language of a patent, recorded interactions with the patent office, and the evaluation of prior art and literature can make a significant difference in the potential licensing and enforcement revenue derived from a patent or patent portfolio. Our specialists are trained and skilled in these areas. It is important to identify potential problem areas, if any, and determine whether potential problem areas can be overcome, prior to acquiring a patent portfolio or launching an effective licensing program. We have developed processes and procedures for identifying problem areas and evaluating the strength of a patent portfolio before the decision is made to allocate resources to an acquisition or to launch an effective licensing and enforcement effort.

**Patent Portfolio Evaluation.** The processes and procedures employed in connection with the evaluation of a specific patent portfolio for acquisition, licensing and enforcement are tailored and unique to each specific situation, and can vary widely based on the specific facts and circumstances of a specific patent portfolio, such as the related technology, related industry and certain other factors. Some of the key components of our processes and procedures may include:

- Utilizing our staff of in-house intellectual property business development executives, patent attorneys, intellectual property licensing executives, and technology engineers to conduct our tailored patent acquisition and evaluation processes and procedures. We may also leverage the expertise of external specialists and technology consultants.

- Identifying emerging growth areas where patented technologies will play a vital role in connection with the manufacture or sale of products and services.

- Identifying core, patented technologies that have been or are anticipated to be widely adopted by third parties in connection with the manufacture or sale of products and services.

- Considering the impact of subtleties in the language of a patent, recorded interactions with the patent office, evaluating prior art and literature and considering the impact on the potential licensing and enforcement revenue that can be derived from a patent or patent portfolio.

- Evaluating the strength of a patent portfolio, including consideration of the types of claims and the number of claims potentially infringed by third parties, before the decision is made to allocate resources to an acquisition or an effective licensing and enforcement effort.

- Identifying and considering potential problem areas, if any, and determining whether potential problem areas can be overcome prior to acquiring a patent portfolio or launching an effective licensing program.

- Identifying potential infringers, industries within which the potential infringers exist, longevity of the patented technology, and a variety of other factors that directly impact the magnitude and potential success of a licensing and enforcement program.

#### Purchase or Acquire the Rights to Patented Technologies

After evaluation, our operating subsidiaries may elect to purchase the patented technology, or acquire the exclusive right to license the patented technology in all or in specific fields of use. The original owner of the patent or patent rights will typically receive an upfront acquisition payment, or retain the right to a portion of the net revenues generated from a patent portfolio's licensing and enforcement program, or a combination of the two. Our operating subsidiaries generally control the licensing and enforcement process and utilize experienced in-house personnel to

reduce outside costs and to ensure that the necessary capital and expertise is allocated and deployed in an efficient and cost effective manner.

#### Successfully License and Enforce Patents with Significant Royalty Potential

As part of the patent evaluation process employed by our operating subsidiaries, significant consideration is also given to the identification of potential infringers, industries within which the potential infringers exist, longevity of the patented technology, and a variety of other factors that directly impact the magnitude and potential success of a licensing and enforcement program. Our specialists are trained in evaluating potentially infringing technologies and in presenting the claims of our patents and demonstrating how they apply to companies we believe are using our technologies in their products or services. These presentations can take place in a non-adversarial business setting, but can also occur through the litigation process, if necessary. Ultimately, we execute patent licensing arrangements with

users of our patented technologies through licensing negotiations without the filing of patent infringement litigation, or through the negotiation of license and settlement arrangements in connection with the filing of patent infringement litigation.

### Patented Technologies

Currently, on a consolidated basis, our operating subsidiaries own or control the rights to over 250 patent portfolios, with future patent expiration dates ranging from 2013 to approximately 2028, and covering technologies used in a wide variety of industries, a sample of which includes the following:

Advertising	Digital Media	Semiconductor/MEMS
Electronic Message Advertising	DMT®	Aligned Wafer Bonding
Internet Radio Advertising	Integrated Access	Chip-Stacking
Interstitial Internet Advertising	Interactive Content in a Cable Distribution System	Computer Architecture and Power Management
Online Ad Tracking	Television Data Display	Computer Memory Cache Coherency
Pop-up Internet Advertising	Television Signal Scrambling	Digital Signal Processing Architecture
	Video Encoding	Dynamic Manufacturing Modeling
Automotive		Dynamic Random Access Memory
Improved Anti-Trap Safety Technology for Vehicles	Energy/Lighting	Enhanced DRAM Architecture
Improved Lighting	Fluid Flow Control and Monitoring Technology	Flash Memory
User Programmable Engine Control	Lighting Ballast	High Performance Computer Architecture
Vehicle Anti-Theft Parking Systems	Lighting Control	Improved Memory Manufacturing MEMS
Vehicle Maintenance		
Vehicle Occupant Sensing	Internet/Ecommerce/Business Methods	Microprocessor Enhancement
	Authorized Spending Accounts	Microprocessor Memory Management
Communications	Automated Communications	Power Management Within Integrated Circuits
Audio Communications Fraud Detection	Automated Notification of Tax Return Status	
Broadcast Data Retrieval	Automated Tax Reporting	Software
Messaging	Consumer Rewards	Automatic Image Labeling
Optical Switching	Digital Newspaper Delivery	Business Process Modeling (BPM)
Peer to Peer Communications	Distributed Data Management and Synchronization	Compiler
Virtual Server	Document Retrieval Using Global Word Co-Occurrence Patterns	Computer Simulations
	Electronic Securities Trading	Document Generation
Computers/Peripherals/Printers	Energy Trading	Facilities Operation Management System
Camera Support	Enhanced Internet Navigation	File Systems and Development Environments