

AMERICAN APPAREL, INC
Form 10-Q
August 17, 2009
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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

FORM 10-Q

x QUARTERLY REPORT PURSUANT TO SECTION 13 or 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the quarterly period ended June 30, 2009

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. 001-32697

American Apparel, Inc.

(Exact Name of Registrant as Specified in Its Charter)

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Delaware (State or Other Jurisdiction of Incorporation or Organization)	20-3200601 (I.R.S. Employer Identification No.)
747 Warehouse Street, Los Angeles, California (Address of Principal Executive Offices)	90021 (Zip Code)
Registrant's Telephone Number, Including area code: (213) 488-0226	

Indicate by checkmark 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 (§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 whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See definitions of large accelerated filer and accelerated filer, and smaller reporting company in Rule 12b-2 of the Exchange Act.

Large accelerated filer <input type="checkbox"/>	Accelerated filer <input checked="" type="checkbox"/>
Non-accelerated filer <input type="checkbox"/> (Do not check if a smaller reporting company)	Smaller reporting company <input type="checkbox"/>

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

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.

Common stock, \$0.0001 par value 71,033,757 shares outstanding on August 13, 2009.

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AMERICAN APPAREL, INC.

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Unless the context requires otherwise, all references in this report to the Company, Registrant, we, our, and us refer to American Apparel, Inc., a Delaware corporation, together with its wholly owned subsidiary, American Apparel (USA), LLC, and its other direct and indirect subsidiaries.

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q, including the documents incorporated by reference herein, contains forward-looking statements within the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. All statements in this Quarterly Report on Form 10-Q other than statements of historical fact are forward-looking statements for purposes of these provisions. Statements that include the use of terminology such as may, will, expects, believes, plans, estimates, potential, or continue, or the negative thereof or other and similar expressions are forward-looking statements. In addition, in some cases, you can identify forward-looking statements by words or phrases such as trend, potential, opportunity, believe, comfortable, expect, anticipate, current, intention, estimate, position, assume, outlook, maintain, sustain, seek, achieve, and similar expressions.

Any statements that refer to projections of our future financial performance, our anticipated growth and trends in our business, our goals, strategies, focuses and plans and other characterizations of future events or circumstances, including statements expressing general expectations or beliefs, whether positive or negative about future operating results or the development of our products and any statement of assumptions underlying any of the foregoing are forward-looking statements. Forward-looking statements in this report may include, without limitation, statements about:

future financial conditions and operating results;

our ability to remain in compliance with financial covenants under our financing arrangements;

our plan to make continued investments in advertising and marketing;

our growth, expansion and acquisition prospects and strategies, the success of such strategies and the benefits we believe can be derived from such strategies;

the outcome of litigation matters;

our intellectual property rights and those of others, including actual or potential competitors;

our personnel, consultants and collaborators;

operations outside the United States;

economic and political conditions;

overall industry and market performance;

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the impact of accounting pronouncements;

management's goals and plans for future operations; and

other assumptions described in this Quarterly Report on Form 10-Q underlying or relating to any forward-looking statements.

The forward-looking statements in this report speak only as of the date of this report and caution should be taken not to place undue reliance on any such forward-looking statements, which are qualified in their entirety by this cautionary statement. Forward-looking statements are subject to numerous assumptions, events, risks, uncertainties and other factors, including those that may be outside of our control and that change over time. As a result, actual results and/or the timing of events could differ materially from those expressed in or implied by the forward-looking statements and future results could differ materially from historical performance. Such assumptions, events, risks, uncertainties and other factors include, among others, those described in the Company's Annual Report on Form 10-K for the year ended December 31, 2008 (filed with the United States Securities and Exchange Commission (the "SEC") on March 16, 2009) and Amendment No.1 to the Company's Annual Report on Form 10-K/A for the year ended December 31, 2008 (filed with the SEC on August 13, 2009) as well as in other reports and documents we file with the SEC and include, without limitation, the following:

changes in the level of consumer spending or preferences or demand for our products;

disruptions in the global financial markets;

consequences of our significant indebtedness, including our ability to comply with our debt agreements and generate cash flow to service our debt;

the highly competitive and evolving nature of our business in the U.S. and internationally;

our ability to manage our growth and expansion both in the U.S. and internationally;

retailer consolidation and intensity of competition, both domestic and foreign, from other apparel providers;

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technological changes in manufacturing, wholesaling, or retailing;

risks that the Company's suppliers and distributors may not timely produce or deliver the Company's products;

loss or reduction in sales to the Company's wholesale or retail customers or financial nonperformance by the Company's wholesale customers;

the adoption of new accounting pronouncements or changes in interpretations of accounting principles;

changes in consumer spending patterns and overall levels of consumer spending;

the availability of store locations at appropriate terms and the Company's ability to identify and negotiate new store locations effectively and to open new stores and expand internationally;

ability to attract customers to our stores;

seasonality and fluctuations in comparable store sales and margins;

the Company's ability to successfully implement its strategic, operating and personnel initiatives;

the Company's ability to maintain the value and image of our brand and protect our intellectual property rights;

changes in the cost of materials and labor;

location of our facilities in the same geographic area;

the Company's relationships with its lenders and its ability to comply with the terms of its existing debt facilities;

adverse changes in the Company's credit ratings and any related impact on financing costs and structure;

risks associated with the Company's foreign operations and foreign supply sources, such as disruption of markets, changes in import and export laws, currency restrictions and currency exchange rate fluctuations;

continued compliance with U. S. and foreign government regulations, legislation and regulatory environments, including environmental, immigration, labor and occupational health and safety laws and regulations;

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the risk that information technology systems changes may disrupt the Company's supply chain or operations;

our ability to upgrade our information technology infrastructure and other risks associated with the systems that operate our online retail operations;

litigation and other inquiries and investigations, including the risk that the Company or its officers will not be successful in defending any proceedings, lawsuits, disputes, claims or audits;

ability to effectively manage inventory and inventory reserves;

changes in key personnel, our ability to hire and retain key personnel, and our relationship with our employees;

material weaknesses in internal controls;

costs as a result of operating as a public company; and

general economic conditions, including increases in interest rates, geopolitical events, other regulatory changes and inflation or deflation.

All forward-looking statements included in this document are made as of the date hereof, based on information available to the Company as of the date hereof, and the Company assumes no obligation to update any forward-looking statements.

Table of Contents**PART I FINANCIAL INFORMATION****Item 1. Financial Statements (unaudited)****AMERICAN APPAREL, INC. AND SUBSIDIARIES****CONDENSED CONSOLIDATED BALANCE SHEETS**

(amounts in thousands)

(unaudited)

	June 30, 2009	December 31, 2008
ASSETS		
CURRENT ASSETS		
Cash	\$ 8,777	\$ 11,368
Trade accounts receivable, net of allowances of \$1,507 and \$1,441 at June 30, 2009 and December 31, 2008, respectively	16,994	16,439
Prepaid expenses and other current assets	6,597	5,369
Inventories	159,269	148,154
Income taxes receivable	4,769	604
Deferred income taxes	2,667	3,550
Total current assets	199,073	185,484
PROPERTY AND EQUIPMENT, net	110,480	112,408
DEFERRED INCOME TAXES	10,383	10,522
OTHER ASSETS, net	26,440	25,195
TOTAL ASSETS	\$ 346,376	\$ 333,609
LIABILITIES AND STOCKHOLDERS EQUITY		
CURRENT LIABILITIES		
Cash overdraft	\$	\$ 2,413
Revolving credit facilities and current portion of long-term debt	51,220	34,318
Accounts payable	21,009	32,731
Accrued expenses	26,495	22,140
Income taxes payable	3,026	9,459
Current portion of capital lease obligations	2,119	2,616
Total current liabilities	103,869	103,677
LONG-TERM DEBT, net of unamortized discount of \$22,456 and none at June 30, 2009 and December 31, 2008, respectively	60,544	67,050
SUBORDINATED NOTES PAYABLE TO RELATED PARTY	4,169	3,292
CAPITAL LEASE OBLIGATIONS, net of current portion	1,253	1,986
DEFERRED RENT	19,910	16,011
OTHER LONG TERM LIABILITIES	6,252	5,181
TOTAL LIABILITIES	195,997	197,197

COMMITMENTS AND CONTINGENCIES (Note 13)

STOCKHOLDERS EQUITY

Preferred stock, \$.0001 par value, authorized 1,000 shares; none issued		
Common stock, \$.0001 par value, authorized 120,000 shares; 72,467 shares issued and 71,034 shares outstanding at June 30, 2009 and 72,221 shares issued and 70,787 shares outstanding at December 31, 2008	7	7
Additional paid-in capital	150,449	131,252
Accumulated other comprehensive loss	(1,836)	(2,703)
Retained earnings	11,803	17,900
Treasury stock, 1,434 shares at cost	(10,044)	(10,044)
TOTAL STOCKHOLDERS EQUITY	150,379	136,412
TOTAL LIABILITIES AND STOCKHOLDERS EQUITY	\$ 346,376	\$ 333,609

See accompanying notes to condensed consolidated financial statements.

Table of Contents**AMERICAN APPAREL, INC. AND SUBSIDIARIES****CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS**

(amounts in thousands, except per share amounts)

(unaudited)

	Three Months Ended June 30,		Six Months Ended June 30,	
	2009	2008	2009	2008
NET SALES	\$ 136,061	\$ 132,971	\$ 250,345	\$ 244,605
COST OF SALES	55,847	55,015	104,735	105,670
GROSS PROFIT	80,214	77,956	145,610	138,935
OPERATING EXPENSES	72,910	62,328	142,206	118,942
INCOME FROM OPERATIONS	7,304	15,628	3,404	19,993
INTEREST AND OTHER (INCOME) EXPENSE				
Interest expense	4,838	3,699	12,475	7,037
Foreign currency transaction (gain) loss	(2,770)	476	(840)	(2)
Other (income) expense	(431)	981	(486)	769
TOTAL INTEREST AND OTHER (INCOME) EXPENSE	1,637	5,156	11,149	7,804
INCOME (LOSS) BEFORE INCOME TAXES	5,667	10,472	(7,745)	12,189
INCOME TAX PROVISION (BENEFIT)	1,205	3,681	(1,648)	4,294
NET INCOME (LOSS)	\$ 4,462	\$ 6,791	\$ (6,097)	\$ 7,895
Basic earnings (loss) per Common share	\$ 0.06	\$ 0.10	\$ (0.09)	\$ 0.12
Diluted earnings (loss) per Common share	\$ 0.06	\$ 0.10	\$ (0.09)	\$ 0.11
Weighted average basic Common shares outstanding	71,034	70,709	71,019	68,447
Weighted average diluted Common shares outstanding	79,897	70,709	71,019	70,101

See accompanying notes to condensed consolidated financial statements.

Table of Contents**AMERICAN APPAREL, INC. AND SUBSIDIARIES****CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**

(Dollars in thousands)

(unaudited)

	Six Months Ended June 30,			
	2009	2008		
CASH FLOWS USED IN OPERATING ACTIVITIES				
Cash received from customers	\$ 250,376	\$ 241,230		
Cash paid to suppliers, employees and others	(243,282)	(235,048)		
Income taxes paid	(8,864)	(6,826)		
Interest paid, net of capitalized interest	(4,344)	(7,037)		
Other	575	(619)		
Net cash used in operating activities	(5,539)	(8,300)		
CASH FLOWS USED IN INVESTING ACTIVITIES				
Capital expenditures	(13,547)	(32,046)		
Purchase of net assets under business acquisition		(3,500)		
Net cash used in investing activities	(13,547)	(35,546)		
CASH FLOWS FROM FINANCING ACTIVITIES				
Cash overdraft from financial institution, net	(2,416)	1,199		
(Repayments) borrowings under revolving credit facilities, net	Q3	Q3 2017	Fiscal	Transition
	2018	2017	2017	Period
	YTD	YTD	2017	Period
Total Revenue	\$ 186,835	\$ 133,174	\$ 192,650	\$ 109,422
Costs, expenses and other:				
Cost of Revenue, excluding depreciation and amortization stated below	150,876	108,347	155,909	90,285
Selling, general and administrative expenses	33,315	22,362	32,819	18,244
Depreciation and amortization	2,251	2,310	3,566	1,773
Impairment of goodwill	—	—	4,790	—
Interest expense	6,185	1,843	3,745	1,382
Amortization of debt discount and deferred financing costs	393	2,610	2,745	1,409
Loss on extinguishment of debt, net	—	6,132	6,132	162
Change in fair value of warrant liability	(879)	493	(383)	—
Gain from sale of business	(238)	—	—	—
Re-measurement loss on intercompany note	332	—	—	—
Other, net	(227)	31	886	12
Loss Before Provision for Income Tax	(5,173)	(10,954)	(17,559)	(3,845)
Benefit from (Provision for) income taxes	78	(213)	(932)	(16)

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Net Loss	(5,095)	(11,167)	(18,491)	(3,861)
Dividends - Series A preferred stock - related party	150	150	200	116
Deemed Dividends - Series D preferred stock	—	2,009	2,009	1,660
Net Loss Attributable to Common Stock Holders	\$(5,245)	\$(13,326)	\$(20,700)	\$(5,637)

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	Q3 2018	Q3 2017	Fiscal 2017	Transition Period
Statement of Cash Flow Data:	YTD	YTD		
Operating Activities	\$7,149	\$(2,775)	\$(7,233)	\$(1,208)
Investing Activities	(1,061)	(20,986)	(21,588)	(1,167)
Financing Activities	(5,822)	28,493	31,273	1,058
Other Data (non-GAAP) (1):				
EBITDA	\$3,656	\$(4,191)	\$(7,503)	\$ 719
Adjusted EBITDA	6,237	4,621	7,391	3,261

Consolidated Balance Sheet Data (at period end):

	Pro Forma September 29, 2018 (2) (Unaudited)	September 29, 2018 (Unaudited)	December 30, 2017	December 31, 2016
Current Assets	\$38,843	\$ 38,843	\$ 37,935	\$ 23,537
Identifiable intangible assets, net	23,376	23,376	17,145	9,149
Goodwill	32,061	32,061	27,169	15,779
Other assets	4,605	4,605	4,499	5,492
Total Assets	\$99,435	\$ 98,885	\$ 86,748	\$ 53,957
Current Liabilities	\$53,405	\$ 53,405	\$ 49,309	\$ 38,994
Term loan - related party, net				