

Synacor, Inc.
Form DEF 14A
April 30, 2012
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SCHEDULE 14A INFORMATION

Proxy Statement Pursuant to Section 14(a) of the Securities Exchange Act of 1934

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
- Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))**
- Definitive Proxy Statement
- Definitive Additional Materials
- Soliciting Material Pursuant to § 240.14a-12

SYNACOR, INC.

(Name of Registrant as Specified in its Charter)

(Name of Person(s) Filing Proxy Statement if Other Than the Registrant)

Payment of Filing Fee (Check the appropriate box)

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(1) Amount Previously Paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

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SYNACOR, INC.

40 La Riviere Drive, Suite 300

Buffalo, NY 14202

April 30, 2012

Dear Stockholder:

I am pleased to invite you to attend Synacor, Inc.'s 2012 Annual Meeting of Stockholders, to be held on May 24, 2012 at Shea's Performing Arts Center, 646 Main Street, Buffalo, New York 14202. The meeting will begin promptly at 11:00 a.m., local time. If you wish to attend the meeting to vote in person and need directions, please contact Synacor Investor Relations at (716) 362-3309 or ir@synacor.com.

Enclosed are the following:

our Notice of Annual Meeting of Stockholders and Proxy Statement for 2012;

our Annual Report on Form 10-K for fiscal year 2011; and

a proxy card with a return envelope to record your vote.

Details regarding the business to be conducted at the Annual Meeting are more fully described in the accompanying Notice of Annual Meeting of Stockholders and Proxy Statement. We encourage you to read these materials carefully.

Your vote is important. Whether or not you expect to attend, please date, sign, and return your proxy card in the enclosed envelope, or vote via telephone or the Internet according to the instructions in the Proxy Statement, as soon as possible to ensure that your shares will be represented and voted at the Annual Meeting. If you attend the Annual Meeting, you may vote your shares in person even though you have previously voted by proxy if you follow the instructions in the Proxy Statement.

On behalf of the Board of Directors, thank you for your continued support and interest.

Sincerely,

/s/ Ronald N. Frankel
RONALD N. FRANKEL

President and Chief Executive Officer

40 La Riviere Drive, Suite 300

Buffalo, NY 14202

T 716.853.1362 F 716.332.0081

<http://www.synacor.com>

YOUR VOTE IS EXTREMELY IMPORTANT

Please vote by telephone or Internet, or date and sign the enclosed proxy card and return it at your earliest convenience in the enclosed postage-prepaid return envelope so that your shares may be voted.

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SYNACOR, INC.

40 La Riviere Drive, Suite 300

Buffalo, NY 14202

NOTICE OF ANNUAL MEETING OF STOCKHOLDERS

To Be Held On May 24, 2012

Dear Stockholder:

You are cordially invited to attend the 2012 Annual Meeting of Stockholders of Synacor, Inc., a Delaware corporation (the "Company"). The meeting will be held on May 24, 2012 at 11:00 a.m. local time at Shea's Performing Arts Center, 646 Main Street, Buffalo, New York 14202 for the following purposes:

1. To elect two (2) members of the Board of Directors to serve until the 2015 annual meeting of stockholders of the Company or until such persons' successors have been duly elected and qualified.
2. To ratify the appointment by the Audit Committee of the Board of Directors of Deloitte & Touche LLP as the independent registered public accounting firm of the Company for its fiscal year ending December 31, 2012.
3. To transact any other business properly brought before the meeting or any adjournment thereof.

These items of business are more fully described in the Proxy Statement accompanying this Notice.

The record date for the 2012 Annual Meeting is April 12, 2012. Only stockholders of record at the close of business on that date may vote at the meeting or any adjournment thereof.

By Order of the Board of Directors

/s/ William J. Stuart
WILLIAM J. STUART

Chief Financial Officer and Corporate Secretary

Buffalo, New York

April 30, 2012

You are cordially invited to attend the annual meeting in person. Whether or not you expect to attend the annual meeting, please complete, date, sign and return the enclosed proxy, or vote over the telephone or the Internet as instructed in these materials, as promptly as possible in order to ensure your representation at the annual meeting. A return envelope (which is postage prepaid if mailed in the United States) is enclosed for your convenience. Even if you have voted by proxy, you may still vote in person if you attend the annual meeting. Please note, however, that if your shares are held of record by a broker, bank or other nominee and you wish to vote at the annual meeting, you must obtain a proxy issued in your name from that record holder.

**IMPORTANT NOTICE REGARDING THE AVAILABILITY OF PROXY MATERIALS FOR THE STOCKHOLDER MEETING
TO BE HELD ON MAY 24, 2012.**

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The Proxy Statement and Annual Report on Form 10-K are available at <http://investor.synacor.com>.

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SYNACOR, INC.

40 La Riviere Drive, Suite 300

Buffalo, NY 14202

PROXY STATEMENT

FOR THE 2012 ANNUAL MEETING OF STOCKHOLDERS

To Be Held On May 24, 2012 at 11:00 a.m., local time

QUESTIONS AND ANSWERS ABOUT THIS PROXY MATERIAL AND VOTING

Why am I receiving these materials?

We sent you this Proxy Statement and the enclosed proxy card because the Board of Directors (the Board of Directors or the Board) of Synacor, Inc. (sometimes referred to as we, the Company or Synacor) is soliciting your proxy to vote at the 2012 Annual Meeting of Stockholders (the Annual Meeting). You are invited to attend the Annual Meeting to vote on the proposals described in this Proxy Statement. However, you do not need to attend the meeting to vote your shares. Instead, you may simply complete, sign and return the enclosed proxy card, or follow the instructions below to submit your proxy by telephone or on the Internet.

The Company intends to commence mailing to all stockholders of record entitled to vote at the Annual Meeting and to post on the Internet at <http://investor.synacor.com> our Annual Report on Form 10-K, this Proxy Statement and accompanying proxy card on or about April 30, 2012.

Who can vote at the Annual Meeting?

Only stockholders of record at the close of business on April 12, 2012 will be entitled to vote at the Annual Meeting. On this record date, there were 26,880,005 shares of Company common stock (Common Stock) outstanding. All of these outstanding shares are entitled to vote at the Annual Meeting. All of the share and per share data in this Proxy Statement (including number of option shares and per-share exercise prices) have been adjusted to reflect the 1-for-2 reverse stock split that took place immediately prior to our initial public offering.

Stockholder of Record: Shares Registered in Your Name

If on April 12, 2012 your shares were registered directly in your name with Synacor's transfer agent, Registrar and Transfer Company, then you are a stockholder of record. As a stockholder of record, you may vote in person at the meeting or vote by proxy. Whether or not you plan to attend the meeting, we urge you to fill out and return the enclosed proxy card or vote by proxy via telephone or the Internet as instructed on your proxy card to ensure your vote is counted.

Beneficial Owner: Shares Registered in the Name of a Broker or Bank

If on April 12, 2012 your shares were held in an account at a broker, bank or other similar organization, then you are the beneficial owner of shares held in street name and these proxy materials are being forwarded to you by that organization. The organization holding your account is considered the stockholder of record for purposes of voting at the Annual Meeting. As a beneficial owner, you have the right to direct that organization on how to vote the shares in your account. Please refer to the voting instructions provided by your bank or broker. Many organizations enable beneficial owners to give voting instructions via telephone or the Internet as well as in writing. You are also invited to attend the Annual Meeting. However, since you are not the stockholder of record, you may not vote your shares in person at the meeting unless you provide a valid proxy from your broker, bank or other custodian.

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What am I voting on?

There are two matters scheduled for a vote:

Proposal No. 1: Election of two (2) members of the Board of Directors to serve as Class I directors until the Company's 2015 Annual Meeting of Stockholders or until their successors are duly elected and qualified.

Proposal No. 2: Ratification of the appointment of Deloitte & Touche LLP as the independent registered public accounting firm for the Company for the fiscal year ending December 31, 2012.

How do I vote?

For Proposal 1, you may either vote **For** all the nominees to the Board of Directors or you may withhold your vote from any nominee you specify. You may not vote your proxy **For** the election of any persons in addition to the two named nominees. For Proposal 2, you may vote **For** or **Against** or abstain from voting.

Stockholder of Record: Shares Registered in Your Name

If you are a stockholder of record, you may vote by proxy using the enclosed proxy card, vote by proxy on the Internet or by telephone, or vote in person at the Annual Meeting. Whether or not you plan to attend the meeting, we urge you to vote by proxy to ensure your vote is counted. You may still attend the meeting and vote in person if you have already voted by proxy.

To vote using the proxy card, simply complete, sign and date the enclosed proxy card and return it promptly in the envelope provided. If you return your signed proxy card to us before the Annual Meeting, we will vote your shares as you direct.

To vote on the Internet, please follow the instructions provided on your proxy card.

To vote by telephone, please follow the instructions provided on your proxy card.

To vote in person, come to the Annual Meeting and we will give you a ballot when you arrive. We provide Internet proxy voting to allow you to vote your shares on-line, with procedures designed to ensure the authenticity and correctness of your proxy vote instructions. However, please be aware that you must bear any costs associated with your Internet access, such as usage charges from Internet access providers.

Beneficial Owner: Shares Registered in the Name of a Broker or Bank

See *Who can vote at the Annual Meeting?* *Beneficial Owner: Shares Registered in the Name of a Broker or Bank* for voting instructions if you beneficially own shares held in street name.

How many votes do I have?

On each matter to be voted upon, you have one vote for each share of Common Stock you own as of the close of business on April 12, 2012.

What if I return a proxy card but do not make specific choices?

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If you return a signed and dated proxy card without marking any voting selections, your shares will be voted **For** the election of each of the two nominees for director, and **For** ratification of Deloitte & Touche LLP as our independent registered public accounting firm. If any other matter is properly presented at the meeting, your proxy (one of the individuals named on your proxy card) will vote your shares using his or her best judgment.

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Who is paying for this proxy solicitation?

Synacor will pay for the entire cost of soliciting proxies. In addition to these mailed proxy materials, Synacor's directors and employees may also solicit proxies in person, by telephone or by other means of communication. Directors and employees will not be paid any additional compensation for soliciting proxies. Synacor may reimburse brokerage firms, banks and other agents for the cost of forwarding proxy materials to beneficial owners.

What does it mean if I receive more than one proxy card?

If you receive more than one proxy card, your shares are registered in more than one name or are registered in different accounts. Please complete, sign and return **each** proxy card to ensure that all of your shares are voted.

Can I change my vote after submitting my proxy?

Yes. You can revoke your proxy at any time before the final vote at the meeting. You may revoke your proxy in any one of the following ways:

You may submit another properly completed proxy card with a later date.

You may vote again on a later date via the Internet or by telephone.

You may send a written notice that you are revoking your proxy to the Corporate Secretary of the Company at Synacor, Inc., 40 La Riviere Drive, Suite 300, Buffalo, New York 14202.

You may attend the Annual Meeting and vote in person. Simply attending the meeting will not, by itself, revoke your proxy.

How are votes counted?

Votes will be counted by the inspector of election appointed for the meeting, who will separately count **For** and, with respect to proposals other than the election of directors, **Against** and **Abstain** votes and broker non-votes. For purposes of Proposal 2, **Abstain** votes will be counted towards the vote total for each proposal, and will have the same effect as **Against** votes.

If your shares are held by your broker, bank or other similar organization as your nominee (that is, in street name), you will need to follow the voting instructions provided by that organization on how to vote your shares. If you do not provide voting instructions, your shares may constitute broker non-votes. Generally, broker non-votes occur on a matter when a broker, bank, or other organization is not permitted to vote on that matter, including the election of directors, without instructions from the beneficial owner and instructions are not given. In tabulating the voting result for any particular proposal, shares that constitute broker non-votes are not considered entitled to vote on that proposal. Thus, broker non-votes will not affect the outcome of any matter being voted on at the meeting, assuming that a quorum would have otherwise been obtained.

How many votes are needed to approve each proposal?

Proposal No. 1. Directors are elected by a plurality of the affirmative votes cast by those shares present in person, or represented by proxy, and entitled to vote at the Annual Meeting. The nominees for director receiving the highest number of affirmative votes will be elected. Stockholders may not cumulate votes in the election of directors. Abstentions and broker non-votes will not be counted toward a nominee's total.

Proposal No. 2. Ratification of the appointment of Deloitte & Touche LLP as the Company's independent registered public accounting firm for the fiscal year ending December 31, 2012 requires the affirmative vote of a majority of those shares present in person, or represented by proxy, and cast either affirmatively or negatively at the Annual Meeting. Abstentions will have the same effect as an **Against** vote. Broker non-votes will not be counted as having been voted on the proposal.

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What are the Board's voting recommendations?

Proposal No. 1: **For** each of the nominees to the Board of Directors.

Proposal No. 2: **For** ratification of the appointment of Deloitte & Touche LLP as the independent registered public accounting firm for the Company for the fiscal year ending December 31, 2012.

What is the quorum requirement?

A quorum of stockholders is necessary to hold a valid meeting. A quorum will be present if a majority of all outstanding shares is represented by stockholders present at the meeting or by proxy. On the record date, there were 26,880,005 shares of Common Stock outstanding and entitled to vote. Thus 13,440,003 shares must be represented by stockholders present at the meeting or by proxy to have a quorum. Abstentions and broker non-votes will be counted as present for the purpose of determining the presence of a quorum. Your shares will be counted towards the quorum only if you submit a valid proxy vote or vote at the meeting.

How can I find out the results of the voting at the Annual Meeting?

Preliminary voting results will be announced at the Annual Meeting. Final voting results will be published in a Current Report on Form 8-K within four business days following the Annual Meeting. In the event we are unable to obtain the final voting results within four business days, we will file the preliminary voting results in a Current Report on Form 8-K within four business days following the Annual Meeting, and will file an amended Form 8-K with the final voting results within four business days after the final voting results are known.

How can stockholders submit a proposal for inclusion in our Proxy Statement for the 2013 Annual Meeting of Stockholders?

To be included in our Proxy Statement for the 2013 annual meeting of stockholders, stockholder proposals must comply with the requirements of Rule 14a-8 under the Securities Exchange Act of 1934, as amended (the Exchange Act). Except as provided below, stockholder proposals must be received by our Corporate Secretary at our principal executive offices no later than December 31, 2012, or one hundred twenty (120) calendar days before the one-year anniversary of the date on which we first commenced mailing our proxy statement to stockholders in connection with this year's Annual Meeting.

How can stockholders submit proposals to be raised at the 2013 Annual Meeting of Stockholders that will not be included in our Proxy Statement for the 2013 Annual Meeting of Stockholders?

To be raised at the 2013 annual meeting of stockholders, stockholder proposals must comply with our amended and restated bylaws (the Bylaws). Under our Bylaws, a stockholder must give advance notice to our Corporate Secretary of any business, including nominations of directors for our Board, that the stockholder wishes to raise at the 2013 annual meeting of stockholders. Except as provided below, a stockholder's notice shall be delivered to our Corporate Secretary at our principal executive offices not less than forty-five (45) or more than seventy-five (75) days prior to the first anniversary of the date of the preceding year's annual meeting of stockholders. Since the 2012 Annual Meeting will be held on May 24, 2012, stockholder proposals must be received by our Corporate Secretary at our principal executive offices no earlier than March 10, 2013 and no later than April 9, 2013, in order to be raised at our 2013 annual meeting of stockholders.

What if the date of the 2013 Annual Meeting of Stockholders changes by more than 30 days from the anniversary of this year's Annual Meeting?

Under Rule 14a-8 of the Exchange Act, if the date of the 2013 annual meeting of stockholders changes by more than 30 days from the anniversary of this year's Annual Meeting, to be included in our Proxy Statement, stockholder proposals must be received by us within a reasonable time before our solicitation is made. Under our

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Bylaws, for stockholder proposals that will not be included in our Proxy Statement, notice of such proposal must be received no later than the close of business on the later of (i) the 90th day prior to the 2013 annual meeting of stockholders or (ii) the 10th day following the day on which public announcement of the meeting is first made.

Does a stockholder proposal require specific information?

With respect to a stockholder's nomination of a candidate for our Board, the stockholder notice to our Corporate Secretary must contain certain information as set forth in our Bylaws about both the nominee and the stockholder making the nomination. With respect to any other business that the stockholder proposes, the stockholder notice must contain a brief description of such business and the reasons for conducting such business at the meeting, as well as certain other information as set forth in our Bylaws. If you wish to bring a stockholder proposal or nominate a candidate for director, you are advised to review our Bylaws, which contain additional requirements about advance notice of stockholder proposals and director nominations. Our current Bylaws may be found on our website at <http://www.synacor.com> in the Investor Relations section.

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The Company's amended and restated certificate of incorporation (the Charter) and Bylaws provide for a classified board of directors. There are three classes of directors, with each class of directors serving three-year terms that end in successive years. Synacor currently has authorized six directors. The class of directors standing for election at the Annual Meeting currently consists of two directors. Two directors will be elected at the Annual Meeting to serve until the 2015 annual meeting of stockholders of Synacor or until their successors are duly elected and qualified. The directors being nominated for election to the Board of Directors (each, a Nominee), their ages as of April 12, 2012, their positions and offices held with Synacor and certain biographical information are set forth below.

The proxy holders intend to vote all proxies received by them in the accompanying form **FOR** the Nominees listed below unless otherwise instructed. In the event that any Nominee is unable or declines to serve as a director at the time of the Annual Meeting, the proxies will be voted for any nominee who may be designated by the current Board of Directors to fill the vacancy. As of the date of this Proxy Statement, the Board of Directors is not aware that any Nominee is unable or will decline to serve as a director. The two Nominees receiving the highest number of affirmative votes of the shares entitled to vote at the Annual Meeting will be elected directors of Synacor. Abstentions and broker non-votes will not be counted toward an individual's total. Proxies cannot be voted for more than two individuals. For further information about how votes will be counted, please refer above to the section entitled *How many votes are needed to approve each proposal*.

Information Regarding the Nominees

| Name | Age | Positions and Offices Held with the Company |
|-------------|------------|--|
| Andrew Kau | 50 | Director |
| Jordan Levy | 56 | Director, Chairman of the Board |

Andrew Kau has been a member of our board of directors since December 2000. Prior to that period, Mr. Kau served as a director of MyPersonal.com, Inc., one of our predecessor companies, from September 1999 until its acquisition by Chek, Inc. to form Synacor. Mr. Kau has been a managing director at Walden International since 1994. From 1992 to 1994, Mr. Kau was President of Chemical Technologies Ventures. Mr. Kau was a management consultant at Strategic Planning Associates, LLC from 1991 to 1992 and at Booz, Allen and Hamilton Inc. from 1985 to 1987. From 1983 to 1985, Mr. Kau was a research scientist at Systems Planning Corporation. Mr. Kau holds a Sc.B. in Electrical Engineering from Brown University and an M.B.A. from the University of Virginia. We believe Mr. Kau's experience as a venture capital investor enables him to bring significant technology knowledge to our board. Additionally, Mr. Kau's lengthy history on our board enables him to provide essential leadership to the board on corporate governance and operational matters.

Jordan Levy has been a member of our board of directors since October 2001 and has served as Chairman of the Board since October 2007. Mr. Levy has been a general partner at Softbank Capital since June 2005. In October 1999, Mr. Levy co-founded Seed Capital Partners LLC and was a managing partner there until May 2005. In July 2007, he was appointed Chairman of the Erie Canal Harbor Development Corporation. From 2004 through 2009 Mr. Levy served on the board of directors of Lorex Technology Inc., a publicly-held company. Mr. Levy holds a B.A. in Political Science from the State University of New York at Buffalo. We believe Mr. Levy's service on the boards of directors of other public companies and his lengthy history on our board give him a strong understanding of his role as a member of our board and enables him to provide essential strategic and corporate governance leadership to the board. Additionally, Mr. Levy's experience as a venture capital investor, including at the seed stage, enables him to bring significant technology experience to our board.

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The Board Of Directors Recommends A Vote FOR Each Named Nominee.

Information Regarding Other Directors Continuing in Office

Set forth below is information regarding each of the continuing directors of Synacor, including his age as of April 12, 2012, the period during which he has served as a director, and certain information as to principal occupations and directorships held by him in corporations whose shares are publicly registered.

Continuing Directors Term Ending in 2013

Marwan Fawaz, age 49, has been a member of our board of directors since December 2011. Since June 2011, Mr. Fawaz has served as Principal at Fawaz Consulting Services. From August 2006 through March 2011, Mr. Fawaz was an Executive Vice President and Chief Technology Officer at Charter, and served as an executive officer of Charter during the pendency of its Chapter 11 cases in 2009. From March 2003 until July 2006, Mr. Fawaz served as Senior Vice President and Chief Technical Officer for Adelphia Communications Corporation, or Adelphia. Adelphia filed a petition under Chapter 11 of the Bankruptcy Code in June 2002. From April 2002 to March 2003, he served as Investment Specialist/Technology Analyst for Vulcan, Inc. Mr. Fawaz served as Regional Vice President of Operations for the Northwest Region for Charter from July 2001 to March 2002. From July 2000 to December 2000, he served as Chief Technology Officer for Infinity Broadband. He served as Vice President Engineering and Operations at MediaOne, Inc. from January 1996 to June 2000. Mr. Fawaz received a B.S. degree in electrical engineering and a M.S. in telecom engineering from CaliforniaStateUniversity Long Beach. We believe Mr. Fawaz's significant experience as an executive at Charter, one of our customers, enables him to bring a valuable customer perspective to our board and provides our board with insight into how prospective and existing customers value our product offering.

Michael J. Montgomery, age 57, has been a member of our board of directors since December 2011. Mr. Montgomery serves as president of Montgomery & Co., a media and entertainment investment banking firm, and leads the firm's media and entertainment practice. Prior to joining the predecessor company to Montgomery & Co. in 1999, Mr. Montgomery was the chief executive officer at Sega GameWorks, a joint venture between Sega, Universal Studios and DreamWorks Studios. Before that, Mr. Montgomery was a senior executive at DreamWorks Studios from 1995 until 1999. Before joining DreamWorks Studios, Mr. Montgomery spent approximately eight years with The Walt Disney Company and its affiliates, where he held a number of senior positions including managing director and chief financial officer of EuroDisney and treasurer of Walt Disney Company. He has previously served on the board of directors of Corus Pharma and Pathogenesis, a public pharmaceutical company that was acquired by Chiron Corporation in 2000. Mr. Montgomery received his M.B.A. from the AmosTuckSchool at DartmouthCollege, where he also received a B.A. degree as Rufus Choate Scholar with magna cum laude honors. Mr. Montgomery is currently a board member of Dreamworks Animation and Chair of the Audit Committee for Dreamworks Animation. We believe that Mr. Montgomery's experience overseeing a media and entertainment investment banking business give him a unique and valuable insight regarding the Internet and other emerging media businesses. Additionally, we believe Mr. Montgomery's prior operational experience will be valuable to our board and his experience serving as the Chair of Dreamworks Animation's Audit Committee will be valuable to our Audit Committee.

Continuing Directors Term Ending in 2014

Ronald N. Frankel, age 55, has served as a member of our board of directors and as our President and Chief Executive Officer since April 2001. Prior to joining us, Mr. Frankel served as Chief Executive Officer of Perks.com, Inc. from 1998 to 2001. From 1994 to 1998 Mr. Frankel served as President of MGM Interactive, the interactive division of Metro-Goldwyn-Mayer Studios Inc. From 1993 to 1994, Mr. Frankel served as Senior Vice President of Marketing and Sales at Kenfil Distribution. From 1988 to 1991, Mr. Frankel served in several executive positions at Softview, Inc., lastly as Senior Vice President of Marketing and Sales. Mr. Frankel attended the University of California at Berkeley and received a J.D. from the University of Southern California

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Law Center. We believe it is appropriate and desirable for our Chief Executive Officer to serve on our board. Additionally, we believe Mr. Frankel's extensive leadership experience at the Company provides our board with useful insights with respect to management and operations.

Gary L. Ginsberg, age 49, has been a member of our board of directors since December 2011. Mr. Ginsberg has been the Executive Vice President of Corporate Marketing and Communications at Time Warner Inc. since February 2010. From 1999 through late 2009, Mr. Ginsberg served as the Executive Vice President in various capacities at News Corporation. Mr. Ginsberg has also been a managing director at the strategic consulting firm Clark & Weinstock, a senior editor and counsel at *George*, the magazine, a former Assistant Counsel to President Clinton, and an attorney with Simpson Thacher & Bartlett LLP. Mr. Ginsberg holds an A.B. from Brown University and a J.D. from Columbia University School of Law. Mr. Ginsberg is a member of the boards of directors of the John F. Kennedy Library Foundation, the Newseum, New Visions for Public Schools and New York Cares. In the past five years, Mr. Ginsberg has served on the boards of directors of Vringo, Inc. and Audible, Inc. and on the audit committee of Audible, Inc. We believe Mr. Ginsberg's significant and high-level experience in the media industry enables him to bring valuable operational and management experience to our board and provides our board with a unique insight into potential partnerships with companies in the media industry.

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CORPORATE GOVERNANCE

Independence of the Board of Directors

The Board of Directors is currently composed of six members. Messrs. Fawaz, Ginsberg, Kau, Levy and Montgomery qualify as independent directors in accordance with the published listing requirements of the Nasdaq Stock Market, or Nasdaq. The Nasdaq independence definition includes a series of objective tests, such as that the director is not, and has not been for at least three years, one of our employees and that neither the director nor any of his or her family members has engaged in various types of business dealings with us. In addition, as further required by the Nasdaq rules, the Board of Directors has made a subjective determination as to each independent director that no relationships exist which, in the opinion of the Board of Directors, would interfere with the exercise of independent judgment in carrying out the responsibilities of a director. In making these determinations, the directors reviewed and discussed information provided by the directors and us with regard to each director's business and personal activities as they may relate to us and our management. The directors hold office until their successors have been duly elected and qualified or their earlier death, resignation, retirement, disqualification or other removal.

Board Leadership Structure

We currently have separate individuals serving as Chairman of our Board of Directors and as our principal executive officer. Mr. Levy has served as Chairman of our Board of Directors since October 2007 and Mr. Frankel has served as our President and Chief Executive Officer since April 2001. Under our Corporate Governance Guidelines the positions of Chairman and Chief Executive Officer should be separate, and the Chairman should be selected from the non-employee directors. Because we have separate individuals serving as Chairman of our Board of Directors and as our principal executive officer, we do not have a lead independent director because the responsibilities of a lead independent director are discharged by the Chairman of our Board of Directors.

Risk Oversight Management

Risk is inherent with every business and we face a number of risks, including strategic, financial, operational, legal/compliance and reputational risks. Our management is responsible for the day-to-day management of the risks that we face. Our Board of Directors as a whole has responsibility for the oversight of enterprise risk management, and our Audit Committee is responsible for overseeing the process by which management assesses and manages our exposure to risk, as well as our major financial risk exposures and the steps management takes to monitor and control such exposures, based on consultation with our management and independent auditors. The Board's and Audit Committee's oversight roles are supported by management reporting processes that are designed to provide the Board and the Audit Committee visibility into the identification, assessment and management of critical risks.

Table of Contents**Information Regarding the Board of Directors and its Committees**

Our independent directors periodically meet in executive sessions at which only independent directors are present. The Board of Directors has an Audit Committee, a Compensation Committee and a Corporate Governance and Nominating Committee. The following table provides membership information for each of the Board committees during the fiscal year ended December 31, 2011 and as of April 12, 2012:

| Name | During year ended December 31, 2011 | | | As of April 12, 2012 | | |
|---------------------------|-------------------------------------|--------------|-------------------------------------|----------------------|--------------|-------------------------------------|
| | Audit | Compensation | Corporate Governance and Nominating | Audit | Compensation | Corporate Governance and Nominating |
| Marwan Fawaz (1) | | | | Member | | |
| Ronald N. Frankel | | | | | | |
| Gary L. Ginsberg (2) | | | | | Member | |
| Andrew Kau (3) | | Chair | Chair | | Chair | Member |
| Thomas W. Keaveney (4) | Member | | | | | |
| Jordan Levy (5) | Member | Member | Member | Member | Member | Chair |
| Jeff Mallett (6) | | | | | | |
| Michael J. Montgomery (7) | | | | Chair | | Member |
| Mark Morrisette (8) | Chair | | | | | |
| Terri Santisi (9) | Chair | | | | | |
| Joseph Tzeng (10) | | Member | Member | | | |

Notes:

- (1) Mr. Fawaz was elected to the Board of Directors effective December 15, 2011 and appointed to the Audit Committee effective immediately prior to the consummation of our initial public offering.
- (2) Mr. Ginsberg was elected to the Board of Directors effective December 15, 2011 and appointed to the Compensation Committee effective immediately prior to the consummation of our initial public offering.
- (3) Mr. Kau resigned as chair of the Corporate Governance and Nominating Committee effective immediately pr