

TrueCar, Inc.
Form 10-Q
November 09, 2016
Table of Contents

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 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 September 30, 2016
.. TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
Commission File Number: 001-36449

TRUECAR, INC.
(Exact name of registrant as specified in its charter)

Delaware 04-3807511
(State or other jurisdiction of (I.R.S. Employer
incorporation or organization) Identification Number)

120 Broadway, Suite 200
Santa Monica, California 90401
(800) 200-2000
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

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 x 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 x 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 the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Non-accelerated filer ..
Large accelerated filer .. Accelerated filer x (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 x

As of November 3, 2016, 85,461,094 shares of the registrant's common stock were outstanding.

Table of Contents

TRUECAR, INC.
INDEX

	Page
<u>PART I - FINANCIAL INFORMATION</u>	
<u>Item 1. Condensed Consolidated Financial Statements (unaudited)</u>	
<u>Consolidated Balance Sheets as of September 30, 2016 and December 31, 2015</u>	<u>4</u>
<u>Consolidated Statements of Comprehensive Loss for the Three and Nine Months Ended September 30, 2016 and 2015</u>	<u>5</u>
<u>Consolidated Statement of Stockholders' Equity for the Nine Months Ended September 30, 2016</u>	<u>6</u>
<u>Consolidated Statements of Cash Flows for the Nine Months Ended September 30, 2016 and 2015</u>	<u>7</u>
<u>Notes to Consolidated Financial Statements</u>	<u>8</u>
<u>Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations</u>	<u>17</u>
<u>Item 3. Quantitative and Qualitative Disclosures About Market Risk</u>	<u>30</u>
<u>Item 4. Controls and Procedures</u>	<u>31</u>
<u>PART II - OTHER INFORMATION</u>	
<u>Item 1. Legal Proceedings</u>	<u>32</u>
<u>Item 1A. Risk Factors</u>	<u>32</u>
<u>Item 2. Unregistered Sales of Equity Securities and Use of Proceeds</u>	<u>52</u>
<u>Item 6. Exhibits</u>	<u>53</u>
<u>Signatures</u>	<u>54</u>

Table of Contents

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Quarterly Report on Form 10-Q contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended, which statements involve substantial risks and uncertainties. Forward-looking statements generally relate to future events or our future financial or operating performance. In some cases, you can identify forward-looking statements because they contain words such as

“anticipates,” “believes,” “could,” “estimates,” “expects,” “intends,” “may,” “might,” “likely,” “plans,” “potential,” “predicts,” or similar expressions and the negatives of those terms. Forward-looking statements contained in this Quarterly Report on Form 10-Q include, but are not limited to, statements about:

- our future financial performance and our expectations regarding our revenue, cost of revenue, gross profit or gross margin, operating expenses, ability to grow revenue, ability to generate cash flow, and ability to achieve, and maintain, future profitability;
- our relationship with key industry participants, including car dealers and automobile manufacturers;
- anticipated trends, growth rates and challenges in our business and in the markets in which we operate;
- our ability to anticipate market needs and develop new and enhanced products and services to meet those needs, and our ability to successfully monetize them;
- maintaining and expanding our customer base in key geographies, including our ability to increase the number of high volume brand dealers in our network generally and in key geographies;
- our reliance on our third-party service providers;
- the impact of competition in our industry and innovation by our competitors;
- our anticipated growth and growth strategies, including our ability to increase the rate at which site visitors obtain Guaranteed Savings Certificates and close rates;
- our ability to anticipate or adapt to future changes in our industry;
- the impact of seasonality on our business;
- our ability to hire and retain necessary qualified employees, including anticipated additions to our dealer, product and technology teams;
- our ability to integrate recent additions to our management team;
- our continuing ability to provide customers access to our products and services and the impact of any failure of our solution innovations;
- the evolution of technology affecting our products, services and markets;
- our ability to adequately protect our intellectual property;
- the anticipated effect on our business of litigation to which we are a party;
- our ability to stay abreast of new or modified laws and regulations that currently apply or become applicable to our business;
- the expense and administrative workload associated with being a public company;
- failure to maintain an effective system of internal controls necessary to accurately report our financial results and prevent fraud;
- our liquidity and working capital requirements;
- the estimates and estimate methodologies used in preparing our consolidated financial statements;
- the future trading prices of our common stock and the impact of securities analysts’ reports on these prices;
- the preceding and other factors discussed in Part II, Item 1A, “Risk Factors,” and in other reports we may file with the Securities and Exchange Commission from time to time; and
- the factors set forth in Part I, Item 2, “Management’s Discussion and Analysis of Financial Condition and Results of Operations.”

We caution you that the foregoing list may not contain all of the forward-looking statements made in this Quarterly Report on Form 10-Q. Forward-looking statements involve known and unknown risks, uncertainties and other factors that may cause our actual results, performance or achievements to be materially different from any future results, performance or achievements expressed or implied by the forward-looking statements. We discuss these risks in greater detail in the section entitled “Risk Factors” and elsewhere in this Quarterly Report on Form 10-Q. Given these

uncertainties, you should not place undue reliance on any forward-looking statements. Forward-looking statements speak only as of the date the statements are made. We assume no obligation to update forward-looking statements to reflect actual results, changes in assumptions or changes in other factors affecting forward-looking information, except to the extent required by applicable securities laws. If we do update one or more forward-looking statements, no inference should be drawn that we will make additional updates with respect to those or other forward-looking statements.

3

Table of Contents

TRUECAR, INC.
 CONSOLIDATED BALANCE SHEETS
 (in thousands, except par value and share data)
 (Unaudited)

	September 30, 2016	December 31, 2015
Assets		
Current assets		
Cash and cash equivalents	\$102,973	\$112,371
Accounts receivable, net of allowances of \$2,362 and \$2,720 at September 30, 2016 and December 31, 2015, respectively (includes related party receivables of \$318 and \$328 at September 30, 2016 and December 31, 2015, respectively)	35,872	33,761
Prepaid expenses	7,205	6,048
Other current assets	1,417	779
Total current assets	147,467	152,959
Property and equipment, net	67,238	71,390
Goodwill	53,270	53,270
Intangible assets, net	20,740	23,815
Other assets	1,251	940
Total assets	\$289,966	\$302,374
Liabilities and Stockholders' Equity		
Current liabilities		
Accounts payable (includes related party payables of \$2,414 and \$7,490 at September 30, 2016 and December 31, 2015, respectively)	\$13,009	\$18,880
Accrued employee expenses	8,555	7,799
Accrued expenses and other current liabilities (includes related party accrued expenses of \$655 and \$318 at September 30, 2016 and December 31, 2015, respectively)	11,809	12,425
Total current liabilities	33,373	39,104
Deferred tax liabilities	2,850	2,413
Lease financing obligations, net of current portion	28,774	26,987
Other liabilities	2,574	1,178
Total liabilities	67,571	69,682
Commitments and contingencies (Note 6)		
Stockholders' Equity		
Preferred stock — \$0.0001 par value; 20,000,000 shares authorized at September 30, 2016 and December 31, 2015, respectively; no shares issued and outstanding at September 30, 2016 and December 31, 2015	—	—
Common stock — \$0.0001 par value; 1,000,000,000 shares authorized at September 30, 2016 and December 31, 2015; 85,289,658 and 83,016,735 shares issued and outstanding at September 30, 2016 and December 31, 2015, respectively	8	8
Additional paid-in capital	532,672	508,584
Accumulated deficit	(310,285)	(275,900)
Total stockholders' equity	222,395	232,692
Total liabilities and stockholders' equity	\$289,966	\$302,374
See accompanying notes to condensed consolidated financial statements.		

Table of Contents

TRUECAR, INC.
CONSOLIDATED STATEMENTS OF COMPREHENSIVE LOSS
(in thousands except per share data)
(Unaudited)

	Three Months Ended		Nine Months Ended	
	September 30,		September 30,	
	2016	2015	2016	2015
Revenues	\$75,139	\$72,405	\$203,426	\$196,250
Costs and operating expenses:				
Cost of revenue (exclusive of depreciation and amortization presented separately below)	6,320	5,952	18,910	17,670
Sales and marketing (includes related party expenses of \$3,724 and \$7,701 for the three months ended September 30, 2016 and 2015, and \$10,384 and \$17,872 for the nine months ended September 30, 2016 and 2015, respectively)	42,557	43,969	112,797	116,135
Technology and development	13,153	12,340	40,315	33,079
General and administrative	13,765	16,467	45,259	53,643
Depreciation and amortization	6,035	4,477	17,807	12,521
Total costs and operating expenses	81,830	83,205	235,088	233,048
Loss from operations	(6,691)	(10,800)	(31,662)	(36,798)
Interest income	91	27	286	71
Interest expense	(645)	(159)	(1,885)	(322)
Other income	—	—	—	14
Loss before provision for income taxes	(7,245)	(10,932)	(33,261)	(37,035)
Provision for income taxes	191	173	497	432
Net loss	\$(7,436)	\$(11,105)	\$(33,758)	\$(37,467)
Net loss per share, basic and diluted	\$(0.09)	\$(0.13)	\$(0.40)	\$(0.46)
Weighted average common shares outstanding, basic and diluted	84,822	82,417	84,075	81,637
Other comprehensive loss:				
Comprehensive loss	\$(7,436)	\$(11,105)	\$(33,758)	\$(37,467)

See accompanying notes to condensed consolidated financial statements.

Table of Contents

TRUECAR, INC.
CONSOLIDATED STATEMENT OF STOCKHOLDERS' EQUITY
(in thousands except share data)
(Unaudited)

	Common Stock		Accumulated Stockholders'		
	Shares	Amount	APIC	Deficit	Equity
Balance at December 31, 2015	83,016,735	\$ 8	\$508,584	\$(275,900)) \$ 232,692
Cumulative-effect of accounting change adopted as of January 1, 2016	—	—	627	(627)) —
Net loss	—	—	—	(33,758)) (33,758)
Stock-based compensation	—	—	18,793	—) 18,793
Issuance of warrants relating to marketing agreements	—	—	13	—) 13
Shares issued in connection with employee stock plans, net of shares withheld for employee taxes	2,272,923	—	4,655	—) 4,655
Balance at September 30, 2016	85,289,658	\$ 8	\$532,672	\$(310,285)) \$ 222,395

See accompanying notes to condensed consolidated financial statements.

Table of Contents

TRUECAR, INC.

CONSOLIDATED STATEMENTS OF CASH FLOWS

(in thousands)

(Unaudited)

	Nine Months Ended September 30,	
	2016	2015
Cash flows from operating activities		
Net loss	\$(33,758)	\$(37,467)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	17,711	12,474
Deferred income taxes	437	415
Bad debt expense and other reserves	817	605
Stock-based compensation	18,033	26,151
Common stock warrant expense	13	(788)
Non-cash interest expense on lease financing obligation	314	—
Write-off and loss on disposal of fixed assets	392	177
Changes in operating assets and liabilities:		
Accounts receivable	(2,928)	(9,249)
Prepaid expenses	(1,181)	117
Other current assets	(638)	1,097
Other assets	(311)	(507)
Accounts payable	(5,134)	7,337
Accrued employee expenses	756	(8,387)
Accrued expenses and other liabilities	1,479	(1,694)
Other liabilities	1,396	7
Net cash used in operating activities	(2,602)	(9,712)
Cash flows from investing activities		
Purchase of property and equipment	(12,872)	(19,626)
Net cash used in investing activities	(12,872)	(19,626)
Cash flows from financing activities		
Repurchase of common stock option awards	(100)	—
Proceeds from exercise of common stock options	5,406	5,566
Taxes paid related to net share settlement of equity awards	(751)	(683)
Proceeds from financing obligation drawdown	1,521	622
Net cash provided by financing activities	6,076	5,505
Net decrease in cash and cash equivalents	(9,398)	(23,833)
Cash and cash equivalents at beginning of period	112,371	147,539
Cash and cash equivalents at end of period	\$102,973	\$123,706
Supplemental disclosures of non-cash activities		
Recognition of leased facility asset acquired and lease financing obligation	—	23,349
Stock-based compensation capitalized for software development	760	1,064
Change in capitalized assets included in accounts payable, accrued employee expenses and other accrued expenses	(2,780)	4,313
See accompanying notes to condensed consolidated financial statements.		

Table of Contents

TRUECAR, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

(Unaudited)

1. Organization and Nature of Business

TrueCar, Inc. (“TrueCar”) is an Internet-based information, technology, and communication services company. Hereinafter, TrueCar, Inc. and its wholly owned subsidiaries TrueCar.com, Inc. and ALG, Inc. are collectively referred to as “TrueCar” or the “Company”; TrueCar.com, Inc. is referred to as “TrueCar.com” and ALG, Inc. is referred to as “ALG”. TrueCar was incorporated in the state of Delaware in February 2005 and began business operations in April 2005. Its principal corporate offices are located in Santa Monica, California.

TrueCar is a digital automotive marketplace that (i) provides pricing transparency about what other people paid for their cars and enables consumers to engage with TrueCar Certified Dealers who are committed to providing a superior purchase experience; (ii) empowers Certified Dealers to attract these informed, in-market consumers in a cost-effective, accountable manner; and (iii) allows automobile manufacturers (“OEMs”) to more effectively target their incentive spending at deep-in-market consumers during their purchase process. TrueCar has established an intelligent, data-driven online platform operating on a common technology infrastructure, powered by proprietary data and analytics. Consumers access TrueCar’s platform through the TrueCar.com website and TrueCar mobile applications or through the car-buying websites and mobile applications that TrueCar operates for its affinity group marketing partners (“Auto Buying Programs”). An affinity group is comprised of a network of members or employees that provides discounts to its members.

ALG provides forecasts, consulting, and other services regarding determination of the residual value of an automobile at future given points in time, which are used to underwrite automotive loans and leases and by financial institutions to measure exposure and risk across loan, lease, and fleet portfolios. ALG also obtains automobile purchase data from a variety of sources and uses this data to provide consumers and dealers with highly accurate, geographically specific, real-time pricing information.

2. Summary of Significant Accounting Policies

Basis of Presentation

The Company’s unaudited condensed consolidated financial statements have been prepared in conformity with accounting principles generally accepted in the United States of America (“GAAP”) and applicable rules and regulations of the U.S. Securities and Exchange Commission (“SEC”) for quarterly reports on Form 10-Q and Article 10-1 of Regulation S-X. Accordingly, some information and footnote disclosures required by GAAP for complete financial statements have been condensed or omitted pursuant to such rules and regulations. In the opinion of the Company’s management, the accompanying unaudited condensed consolidated financial statements and notes have been prepared on the same basis as the audited consolidated financial statements for the year ended December 31, 2015 and include all adjustments (consisting of normal recurring adjustments) necessary for a fair statement of the interim periods presented.

The condensed consolidated balance sheet at December 31, 2015 has been derived from the audited financial statements at that date, but does not include all of the disclosures required by GAAP. The accompanying condensed consolidated financial statements should be read in conjunction with the consolidated financial statements and notes thereto contained in the Company’s Form 10-K filed with the SEC on March 10, 2016.

Use of Estimates

The preparation of consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the dates of the consolidated financial statements, and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. Assets and liabilities which are subject to judgment and use of estimates include sales allowances and allowances for doubtful accounts, the fair value of assets and liabilities assumed in business combinations, fair value of the capitalized facility leases, the recoverability of goodwill and long-lived assets, valuation allowances with respect to deferred tax assets, useful lives associated with property and equipment and intangible assets, lease exit liabilities, contingencies, and the valuation and assumptions underlying stock-based compensation and other equity instruments. On an ongoing basis, the

Company evaluates its estimates compared to historical experience and trends, which form the basis for making judgments about the carrying value of assets and liabilities. In addition, the Company engaged valuation specialists to assist with management's determination of the valuation of its capitalized facility leases, fair values of assets and liabilities assumed in business combinations, the fair value of reporting units in connection with annual goodwill impairment testing, and in periods prior to the Company's initial public offering, valuation of common stock.

Table of Contents

Segments

The Company has one operating segment. The Company's chief operating decision maker ("CODM") is the President and Chief Executive Officer and the Chief Financial Officer, who manage the Company's operations based on consolidated financial information for purposes of evaluating financial performance and allocating resources. The CODM review financial information on a consolidated basis, accompanied by information about transaction revenue and forecasts, consulting and other revenue (Note 11). All of the Company's principal operations, decision-making functions and assets are located in the United States.

Recent Accounting Pronouncements

Under the Jumpstart Our Business Startups Act ("JOBS Act"), the Company meets the definition of an emerging growth company. The Company has irrevocably elected to opt out of the extended transition period for complying with new or revised accounting standards pursuant to Section 107(b) of the JOBS Act.

In March 2016, the FASB issued guidance to simplify several aspects of the accounting for share-based payment award transactions, including accounting for income tax, classification of awards as either equity or liabilities, forfeitures, statutory tax withholding requirements, and classification in the statement of cash flows. The new guidance is effective for annual periods beginning after December 15, 2016, and interim periods within those annual periods. Early adoption is permitted if it is applied from the beginning of the fiscal year of adoption. The Company adopted this guidance in the third quarter of 2016, which required retroactive application to the beginning of 2016. With this adoption, the Company recognized \$18.0 million of accumulated excess tax benefits as deferred tax assets that under previous guidance could not be recognized until the benefits were realized through a reduction in cash taxes paid. However, given the full valuation allowance placed on the additional \$18.0 million of deferred tax assets, the recognition upon adoption had no impact to our accumulated deficit as of January 1, 2016.

Also with this adoption, the Company elected to account for forfeitures when they occur instead of estimating the expected forfeiture rate. Adoption of this provision during the third quarter resulted in a cumulative effect adjustment as of January 1, 2016 to increase accumulated deficit by \$0.6 million.

In February 2016, the FASB issued guidance amending the existing accounting standards for lease accounting, including requiring lessees to recognize most leases on their balance sheets and making targeted changes to lessor accounting. The new guidance will be effective for public entities for annual periods beginning after December 15, 2018 and interim periods therein. Early adoption is permitted. The new leases standard requires a modified retrospective transition approach for all leases existing at, or entered into after, the date of initial application, with an option to use certain transition relief. The Company is evaluating the methods and impact of adopting this guidance on its consolidated financial statements.

In May 2014, the FASB issued guidance related to revenue from contracts with customers. Under this guidance, revenue is recognized when promised goods or services are transferred to customers in an amount that reflects the consideration that is expected to be received for those goods or services. The updated standard will replace all existing revenue recognition guidance under GAAP when it becomes effective and permits the use of either the retrospective or cumulative effect transition method. In August 2015, the FASB deferred the effective date to January 1, 2018, with early adoption beginning January 1, 2017. In 2016, the FASB issued additional guidance to clarify the implementation guidance. The Company is evaluating the impact of adopting this guidance on its consolidated financial statements.

3. Fair Value Measurements

Fair value is defined as the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date.

Valuation techniques used to measure fair value must maximize the use of observable inputs and minimize the use of unobservable inputs. Accounting standards describe a fair value hierarchy based on three levels of inputs, of which the first two are considered observable and the last unobservable, that may be used to measure fair value which are the following:

Level 1 — Quoted prices in active markets for identical assets or liabilities or funds.

Level 2 — Inputs other than Level 1 that are observable, either directly or indirectly, such as quoted prices for similar assets or liabilities; quoted prices in markets that are not active; or other inputs that are observable or can be

corroborated by observable market data for substantially the full term of the assets or liabilities.

9

Table of Contents

Level 3 — Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities.

The carrying amounts of cash equivalents, accounts receivable, prepaid and other current assets, accounts payable, and accrued expenses and other current liabilities approximate fair value because of the short maturity of these items.

The following table summarizes the Company's financial assets measured at fair value on a recurring basis at September 30, 2016 and December 31, 2015 by level within the fair value hierarchy. Financial assets are classified in their entirety based on the lowest level of input that is significant to the fair value measurement (in thousands):

	At September 30, 2016		At December 31, 2015	
	Level 1	Total Fair Value	Level 1	Total Fair Value
Cash equivalents	\$ 102,969	\$ 102,969	\$ 112,131	\$ 112,131
Total Assets	\$ 102,969	\$ 102,969	\$ 112,131	\$ 112,131

4. Property and Equipment, net

Property and equipment consisted of the following at September 30, 2016 and December 31, 2015 (in thousands):

	September 30, December 31, 2016 2015	
Computer equipment, software, and internally developed software	\$ 63,584	\$ 53,862
Furniture and fixtures	3,704	3,575
Leasehold improvements	4,804	4,410
Capitalized facility leases	39,302	39,154
	111,394	101,001
Less: Accumulated depreciation	(44,156)	(29,611)
Total property and equipment, net	\$ 67,238	\$ 71,390

The Company is considered the owner, for accounting purposes only, of one of its Santa Monica, California leased office spaces and of its San Francisco, California leased office space (collectively, the "Premises") as it had taken on certain risks of construction build cost overages above normal tenant improvement allowances. Accordingly, at September 30, 2016 and December 31, 2015, the Company has capitalized \$39.3 million and \$39.2 million, respectively, related to the Premises, which represents the estimated fair value of the leased properties, additions for capitalized interest incurred during the construction periods, and capitalized costs related to improvements to the building. For the three and nine months ended September 30, 2015, the Company capitalized approximately \$0.5 million and \$1.6 million of interest costs related to the Premises. There were no capitalized interest costs related to the Premises for the three and nine months ended September 30, 2016. At September 30, 2016 and December 31, 2015, the Company recorded accumulated amortization of \$1.0 million and \$0.2 million, respectively. Additionally, at September 30, 2016 and December 31, 2015, the Company recognized a corresponding lease financing obligation of approximately \$31.0 million and \$28.9 million, respectively.

Included in the table above are property and equipment of \$2.3 million and \$5.3 million at September 30, 2016 and December 31, 2015, respectively, which are capitalizable, but had not yet been placed in service. The \$2.3 million and \$5.3 million balances at September 30, 2016 at December 31, 2015, respectively, were comprised primarily of capitalized software not ready for its intended use.

Total depreciation and amortization expense of property and equipment was \$5.0 million and \$3.4 million for the three months ended September 30, 2016 and 2015, respectively. Total depreciation and amortization expense of property and equipment was \$14.7 million and \$9.4 million for the nine months ended September 30, 2016 and 2015, respectively.

Amortization of internal use capitalized software development costs was \$3.9 million and \$2.4 million for the three months ended September 30, 2016 and 2015, respectively. Amortization of internal use capitalized software development costs was \$11.3 million and \$6.4 million for the nine months ended September 30, 2016 and 2015, respectively.

Table of Contents

5. Credit Facility

In February 2015, the Company entered into a third amended and restated loan and security agreement (“Third Amended Credit Facility”) with a financial institution for a \$35.0 million secured revolving credit facility that expires on February 18, 2018. The Third Amended Credit Facility provides a \$10.0 million subfacility for the issuance of letters of credit and contains an increase option permitting the Company, subject to the lender's consent, to increase the revolving credit facility by up to \$15.0 million, to an aggregate maximum of \$50 million.

The Third Amended Credit Facility bears interest, at the Company’s option, at either (i) the prime rate published by The Wall Street Journal, plus a spread of -0.25% to 0.50%, or (ii) a LIBOR rate determined in accordance with the terms of the Third Amended Credit Facility, plus a spread of 1.75% to 2.50%. In each case, the spread is based on the Company’s adjusted quick ratio, which is a ratio of the Company’s cash and cash equivalents plus net billed accounts receivable to current liabilities plus all borrowings under the credit facility.

Interest is due and payable quarterly in arrears for prime rate loans and on the earlier of the last day of each quarter or the end of an interest period, as defined in the Third Amended Credit Facility, for LIBOR rate loans. The Company is also obligated to pay an unused revolving line facility fee of 0.00% to 0.20% per annum based on the Company’s adjusted quick ratio.

Third Amended Credit Facility requires the Company to maintain an adjusted quick ratio of at least 1.5 to 1 on the last day of each quarter. If this adjusted quick ratio is not maintained, then the facility requires the Company to maintain, as measured at each quarter end, a maximum consolidated leverage ratio of 3.00 or 2.50 to 1.00, and a fixed charge coverage ratio of at least 1.25 to 1.00.

Consolidated leverage ratio is a ratio of all funded indebtedness, including all capital lease obligations, plus all letters of credit under the facility to the Company’s Adjusted EBITDA for the trailing twelve months. Fixed charge coverage ratio is the ratio of our Adjusted EBITDA less cash paid for income taxes to our cash paid for interest plus capital expenditures for the trailing twelve months. This credit facility also limits the Company’s ability to pay dividends. At September 30, 2016, the Company was in compliance with all financial covenants.

The Company’s future material domestic subsidiaries are required, upon the lender’s request, to become co-borrowers under the credit facility. The credit facility contains acceleration clauses that accelerate any borrowings in the event of default. The obligations of the Company and its future material domestic subsidiaries are collateralized by substantially all of their respective assets, subject to certain exceptions and limitations.

At September 30, 2016 and December 31, 2015, the Company had no outstanding amounts under the Third Amended Credit Facility. The amount available was \$30.7 million, reduced for the letters of credit issued and outstanding under the subfacility of \$4.3 million at September 30, 2016.

6. Commitments and Contingencies

Austin Office Lease Commitment

In May 2016, the Company entered into a new office lease for approximately 38,000 square feet near Austin, Texas. The lease is expected to commence in February 2017 and has a ten-year term. The Company has the option to extend the lease for two additional five-year periods. The cumulative base rent over the initial lease term is approximately \$9.9 million.

Lease Exit Costs

In December 2015, the Company consolidated its Santa Monica, California office locations and recognized a liability for lease exit costs incurred based on the remaining lease rental due, reduced by estimated sublease rental income that could be reasonably obtained for the properties. In the second quarter of 2016, the Company updated its estimates of sublease rental income for the spaces exited in December 2015 and recorded an additional \$2.7 million in lease exit costs. Due to a deterioration in the local commercial real estate market, the Company now expects both a longer period of time to sublease the spaces as well as lower rental rates than originally estimated in the fourth quarter of 2015. The costs are recorded in general and administrative expense in the consolidated statement of comprehensive loss for the nine months ended September 30, 2016. The liability is recorded in accrued expenses and other current liabilities (current portion) and other liabilities (non-current portion) within the consolidated balance sheets.

Table of Contents

The following table presents a roll forward of the lease exit liability for the nine months ended September 30, 2016:

	Lease Exit Costs
Accrual at December 31, 2015	\$1,988
Expense	2,684
Cash Payments	(1,821)
Accrual at September 30, 2016	\$2,851

Legal Proceedings

From time to time, the Company may become subject to legal proceedings, claims, and litigation arising in the ordinary course of business. When the Company becomes aware of a claim or potential claim, it assesses the likelihood of any loss or exposure. In accordance with authoritative guidance, the Company records loss contingencies in its financial statements only for matters in which losses are probable and can be reasonably estimated. Where a range of loss can be reasonably estimated with no best estimate in the range, the Company records the minimum estimated liability. If the loss is not probable or the amount of the loss cannot be reasonably estimated, the Company discloses the nature of the specific claim if the likelihood of a potential loss is reasonably possible and the amount involved is material. The Company continuously assesses the potential liability related to the Company's pending litigation and revises its estimates when additional information becomes available. The Company is not currently a party to any material legal proceedings, other than as described below.

On March 9, 2015, the Company was named as a defendant in a lawsuit filed in the U.S. District Court in the Southern District of New York (the "NY Lanham Act Litigation"). The complaint in the NY Lanham Act Litigation, purportedly filed on behalf of numerous automotive dealers who are not participating on the TrueCar platform, alleges that the Company has violated the Lanham Act as well as various state laws prohibiting unfair competition and deceptive acts or practices related to the Company's advertising and promotional activities. The complaint seeks injunctive relief in addition to over \$250 million in damages as a result of the alleged diversion of customers from the plaintiffs' dealerships to TrueCar Certified Dealers. On April 7, 2015, the Company filed an answer to the complaint. Thereafter, the plaintiffs amended their complaint, and on July 13, 2015, the Company filed a motion to dismiss the amended complaint. On January 6, 2016, the Court granted the Company's motion to dismiss with respect to some, but not all, of the advertising and promotional activities challenged in the amended complaint. The litigation is currently in the discovery phase. The Company believes that the portions of the amended complaint that survived the Company's motion to dismiss are without merit, and it intends to vigorously defend itself in this matter. We have not recorded an accrual related to this matter as of September 30, 2016, as we do not believe a loss is probable or reasonably estimable.

On May 20, 2015, the Company was named as a defendant in a lawsuit filed by the California New Car Dealers Association in the Superior Court for the County of Los Angeles (the "CNCDA Litigation"). The complaint in the CNCDA Litigation seeks declaratory and injunctive relief based on allegations that the Company is operating in the State of California as an unlicensed automobile dealer and autobroker. The complaint does not seek monetary relief. On July 20, 2015, the Company filed a "demurrer" to the complaint, which is a pleading that requests the court to dismiss the case. Thereafter, the plaintiffs amended their complaint, and on September 11, 2015, the Company filed a demurrer to the amended complaint. On December 7, 2015, the Court granted the Company's demurrer in its entirety, but afforded the CNCDA the opportunity to file a second amended complaint. The CNCDA filed a second amended complaint on January 4, 2016. The second amended complaint reiterates the claims in the prior complaints and adds claims under theories based on the federal Lanham Act and California unfair competition law. On February 3, 2016, the Company filed a demurrer to the second amended complaint. On March 30, 2016, the Court granted in part and denied in part the Company's demurrer to the second amended complaint, dismissing the Lanham Act claim but declining to dismiss the balance of the claims at the demurrer stage of the litigation. On May 31, 2016, based on certain intervening developments in state law, the Court announced that it would reconsider its March 30, 2016 order,

and it invited the parties to file new briefs on the demurrer issues. On July 15, 2016, the Court heard oral argument on reconsideration of the demurrer issues. On July 25, 2016, the Court granted in part and denied in part the Company's demurrer to the second amended complaint, just as it had done in its March 30, 2016 order. The litigation is currently in the discovery phase. The Company believes that the portions of the second amended complaint that survived the Court's reconsideration of the Company's demurrer are without merit, and it intends to vigorously defend itself in this matter. The Company has not recorded an accrual related to this matter as of September 30, 2016, as the Company does not believe a loss is probable or reasonably estimable.

On May 27, 2015, a purported securities class action complaint was filed in the U.S. District Court for the Central District of California (the "Federal Securities Litigation") by Satyabrata Mahapatra naming the Company and two other

Table of Contents

individuals not affiliated with the Company as defendants. On June 15, 2015, the plaintiff filed a Notice of Errata and Correction purporting to name Scott Painter, the Company's then Chief Executive Officer, and Michael Guthrie, the Company's Chief Financial Officer, as individual defendants in lieu of the two individual defendants named in the complaint. On October 5, 2015, the plaintiffs amended their complaint. As amended, the complaint in the Federal Securities Litigation seeks an award of unspecified damages, interest and attorneys' fees based on allegations that the defendants made false and/or misleading statements, and failed to disclose material adverse facts about the Company's business, operations, prospects and performance. Specifically, the amended complaint alleges that during the putative class period, the defendants made false and/or misleading statements and/or failed to disclose that: (i) the Company's business practices violated unfair competition and deceptive trade practice laws (i.e., the issues raised in the NY Lanham Act Litigation); (ii) the Company acts as a dealer and broker in car sales transactions without proper licensing, in violation of various states' laws that govern car sales (i.e., the issues raised in the CNCDA Litigation); and (iii) as a result of the above, the Company's registration statements, prospectuses, quarterly and annual reports, financial statements, SEC filings, press releases, and other statements and documents were materially false and misleading at times relevant to the amended complaint and putative class period. The amended complaint asserts a putative class period stemming from May 16, 2014 to July 23, 2015. On October 19, 2015, the Company filed a motion to dismiss the amended complaint. On December 9, 2015, the Court granted the Company's motion to dismiss and dismissed the case in its entirety. On January 8, 2016, the plaintiff filed a notice of appeal. On June 20, 2016, the plaintiff filed a motion for voluntary dismissal of the appeal. The motion was granted by the Court on June 27, 2016. As the case has been dismissed, no loss was deemed probable and no accrual related to this matter has been recorded.

On December 23, 2015, the Company was named as a defendant in a putative class action lawsuit filed by Gordon Rose in the California Superior Court for the County of Los Angeles (the "California Consumer Class Action"). The complaint asserted claims for unjust enrichment, violation of the California Consumer Legal Remedies Act, and violation of the California Business and Professions Code, based principally on factual allegations similar to those asserted in the NY Lanham Act Litigation and the CNCDA Litigation. The complaint sought an award of unspecified damages, interest, disgorgement, injunctive relief, and attorneys' fees. In the complaint, the plaintiff sought to represent a class of California consumers defined as "[a]ll California consumers who purchased an automobile by using TrueCar, Inc.'s price certificate during the applicable statute of limitations." On January 12, 2016, the Court entered an order staying all proceedings in the case pending an initial status conference, which was previously scheduled for April 13, 2016. On March 16, 2016, the case was reassigned to a different judge. As a result of that reassignment, the initial status conference was rescheduled for and held on May 26, 2016. By stipulation, the stay of discovery has been continued until a second status conference, which was scheduled for October 12, 2016. On July 13, 2016, the plaintiff amended his complaint. The amended complaint continues to assert claims for unjust enrichment, violation of the California Consumer Legal Remedies Act, and violation of the California Business and Professions Code. The amended complaint retains the same proposed class definition as the initial complaint. Like the initial complaint, the amended complaint seeks an award of unspecified damages, interest, disgorgement, injunctive relief, and attorneys' fees. On September 12, 2016, the Company filed a demurrer to the amended complaint. On October 12, 2016, the Court heard oral argument on the demurrer. On October 13, 2016, the Court granted in part and denied in part the Company's demurrer to the amended complaint, dismissing the unjust enrichment claim but declining to dismiss the balance of the claims at the demurrer stage of the litigation. On October 17, 2016, the Court entered an order scheduling a further status conference for January 26, 2017. The Company believes that the amended complaint is without merit, and it intends to vigorously defend itself in this matter. The Company has not recorded an accrual related to this matter as of September 30, 2016, as the Company does not believe a loss is probable or reasonably estimable.

Employment Contracts

The Company has entered into employment contracts with certain executives of the Company. Employment under these contracts is at-will employment. However, under the provisions of the contracts, the Company would incur severance obligations up to twelve months of the executive's annual base salary for certain events such as involuntary terminations.

In the fourth quarter of 2015, the Company incurred severance costs related to its former CEO and several executive-level employees who terminated their employment. In the second quarter of 2016, the Company incurred additional severance costs totaling \$1.8 million related to an executive who terminated during the period, and several other employees whose terminations related to a reorganization of the Company's product and technology teams. The reorganization of the Company's product and technology teams was necessary to better align the Company's resources during its transition from multiple software platforms to a unified architecture. Of the total severance costs, the Company recorded \$1.3 million in technology and development and \$0.5 million in sales and marketing in the Company's consolidated statements of comprehensive loss during the second quarter. There was no additional severance liability recorded in the third quarter of 2016.

The following table presents a roll forward of this severance liability for the nine months ended September 30, 2016:

Table of Contents

	Executive Severance and Reorganization Costs
Accrual at December 31, 2015	2,803
Severance Costs	1,783
Cash Payments	(3,727)
Accrual at September 30, 2016	\$ 859
Indemnifications	

In the ordinary course of business, the Company may provide indemnities of varying scope and terms to customers, vendors, lessors, investors, directors, officers, employees and other parties with respect to certain matters, including, but not limited to, losses arising out of the Company's breach of such agreements, services to be provided by the Company, or from intellectual property infringement claims made by third-parties. These indemnifications may survive termination of the underlying agreement and the maximum potential amount of future payments the Company could be required to make under these indemnification provisions may not be subject to maximum loss provisions. The maximum potential amount of future payments the Company could be required to make under these indemnification provisions is indeterminable. To date, there has not been a material claim paid by the Company, nor has the Company been sued in connection with these indemnification arrangements. At September 30, 2016 and December 31, 2015, the Company has not accrued a liability for these guarantees, because the likelihood of incurring a payment obligation, if any, in connection with these guarantees is not probable or reasonably estimable.

7. Stock-based Awards

Stock Options

A summary of the Company's stock option activity for the nine months ended September 30, 2016 is as follows:

	Number of Options	Weighted-Average Exercise Price	Weighted-Average Remaining Contractual Life (in years)
Outstanding at December 31, 2015	24,277,901	\$ 8.12	5.62
Granted	4,589,003	9.50	
Exercised	(1,368,110)	3.95	
Canceled/forfeited	(1,946,322)	11.38	
Outstanding at September 30, 2016	25,552,472	\$ 8.34	5.81

At September 30, 2016, total remaining stock-based compensation expense for unvested stock option awards was \$36.4 million, which is expected to be recognized over a weighted-average period of 3.1 years. For the three months ended September 30, 2016 and 2015, the Company recorded stock-based compensation expense for stock option awards of \$3.5 million and \$6.2 million, respectively. For the nine months ended September 30, 2016 and 2015, the Company recorded stock-based compensation expense for stock option awards of \$10.9 million, and \$20.5 million, respectively.

Table of Contents

Restricted Stock Units

Activity in connection with restricted stock units is as follows for the nine months ended September 30, 2016:

	Number of Shares	Weighted- Average Grant Date Fair Value
Non-vested — December 31, 2015	3,747,340	\$ 8.18
Granted	2,528,567	7.11
Vested	(998,958)	8.08
Canceled/forfeited	(699,154)	7.36
Non-vested — September 30, 2016	4,577,795	\$ 7.74

At September 30, 2016, total remaining stock-based compensation expense for non-vested restricted stock units is \$31.9 million, which is expected to be recognized over a weighted-average period of 3.2 years. The Company recorded \$2.8 million and \$1.4 million in stock-based compensation expense for restricted stock units for the three months ended September 30, 2016 and 2015, respectively. The Company recorded \$7.1 million and \$5.7 million in stock-based compensation expense for restricted stock units for the nine months ended September 30, 2016 and 2015.

Stock-based Compensation Cost

The Company recorded stock-based compensation cost relating to stock options and restricted stock awards in the following categories on the accompanying consolidated statements of comprehensive loss (in thousands):

	Three Months Ended September 30, 2016		Nine Months Ended September 30, 2015	
Cost of revenue	\$256	\$217	\$711	\$581
Sales and marketing	1,655	1,131	4,154	3,739
Technology and development	1,200	889	3,025	3,042
General and administrative	3,130	5,294	10,143	8,789
Total stock-based compensation expense	6,241	7,531		