

usell.com, Inc.
Form 10-Q
November 19, 2018

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 10-Q

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

For the quarterly period ended: September 30, 2018

or

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

For the transition period from _____ to _____

Commission file number 000-50494

uSell.com, Inc.

(Exact name of registrant as specified in its charter)

Delaware

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

98-0412432

*(I.R.S. Employer
Identification No.)*

18 West 18th Street, Suite 11-03

10011

New York, NY

(Address of principal executive offices) (Zip Code)

(212) 213-6805

(Registrant's telephone number, including area code)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	Accelerated filer
Non-accelerated filer	Smaller reporting company
Emerging growth company	

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

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.

Class	Outstanding as of November 19, 2018
Common Stock, \$0.0001 par value per share	28,357,999 shares

uSell.com, Inc. and Subsidiaries

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PART I - FINANCIAL INFORMATION**Item 1. Financial Statements.****uSell.com, Inc. and Subsidiaries****Condensed Consolidated Balance Sheets**

	September 30, 2018 (unaudited)	December 31, 2017
Assets		
Current Assets:		
Cash and cash equivalents	\$ 1,104,560	\$ 390,810
Restricted cash	2,875,638	942,274
Accounts receivable, net	198,376	236,674
Inventory	3,551,844	10,642,531
Due from related party	—	139,333
Prepaid expenses and other current assets	137,880	99,381
Total Current Assets	7,868,298	12,451,003
Property and equipment, net	147,706	188,056
Intangible assets, net	2,366,165	2,948,294
Capitalized technology, net	823,138	868,449
Other assets	71,113	61,750
Total Assets	\$ 11,276,420	\$ 16,517,552
Liabilities and Stockholders' Equity		
Current Liabilities:		
Accounts payable	\$ 3,390,026	\$ 1,787,571
Accrued expenses	854,759	1,165,348
Deferred revenue	211,991	394,780
Promissory note payable	5,565,046	8,325,355
Capital lease obligation	15,273	14,400
Total Current Liabilities	10,037,095	11,687,454
Capital lease obligation, net of current portion	34,486	46,053
Total Liabilities	10,071,581	11,733,507
Stockholders' Equity:		

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Convertible Series A preferred stock; \$0.0001 par value; 325,000 shares authorized; no shares issued and outstanding	—	—
Convertible Series B preferred stock; \$0.0001 value per share; 4,000,000 shares authorized; no shares issued and outstanding	—	—
Convertible Series C preferred stock; \$0.0001 value per share; 146,667 shares authorized; no shares issued and outstanding	—	—
Convertible Series E preferred stock; \$0.0001 value per share; 103,232 shares authorized; no shares issued and outstanding	—	—
Common stock; \$0.0001 par value; 43,333,333 shares authorized; 28,353,999 shares and 28,290,999 shares issued and outstanding, respectively	2,835	2,829
Additional paid in capital	75,730,573	75,469,350
Accumulated deficit	(74,528,569)	(70,688,134)
Total Stockholders' Equity	1,204,839	4,784,045
 Total Liabilities and Stockholders' Equity	 \$ 11,276,420	 \$ 16,517,552

See accompanying notes to unaudited interim condensed consolidated financial statements.

uSell.com, Inc. and Subsidiaries**Condensed Consolidated Statements of Operations****(Unaudited)**

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2018	2017	2018	2017
Revenue	\$ 17,178,535	\$ 28,872,702	\$ 50,610,208	\$ 81,141,673
Cost of Revenue	16,141,272	27,314,910	49,588,313	75,863,429
Gross Profit (Loss)	1,037,263	1,557,792	1,021,895	5,278,244
Operating Expenses:				
Sales and marketing	136,404	532,757	613,675	1,617,531
General and administrative	914,906	1,312,713	3,098,024	4,207,210
Total operating expenses	1,051,310	1,845,470	3,711,699	5,824,741
Loss from Operations	(14,047)	(287,678)	(2,689,804)	(546,497)
Other Expense:				
Interest expense	(468,991)	(337,352)	(1,150,631)	(1,973,281)
Net Loss	\$(483,038)	\$(625,030)	\$(3,840,435)	\$(2,519,778)
Basic and Diluted Loss per Common Share:				
Net loss per common share - basic and diluted	\$(0.02)	\$(0.03)	\$(0.14)	\$(0.13)
Weighted average number of common shares outstanding during the period - basic and diluted	28,349,977	20,150,640	28,343,541	20,143,783

See accompanying notes to unaudited interim condensed consolidated financial statements.

uSell.com, Inc. and Subsidiaries**Condensed Consolidated Statements of Cash Flows****(Unaudited)**

	Nine Months Ended September 30,	
	2018	2017
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net loss	\$(3,840,435)	\$(2,519,778)
Adjustments to reconcile net loss to net cash and cash equivalents provided by operating activities:		
Depreciation and amortization	1,050,846	1,082,093
Stock based compensation expense	261,229	374,335
Interest and forbearance fees added to principal balance of note payable	419,219	—
Amortization of debt issue costs into interest expense	120,472	1,063,545
Changes in operating assets and liabilities:		
Accounts receivable	38,298	33,985
Inventory	7,090,687	1,216,046
Due from related party	139,333	48,991
Prepaid and other current assets	(38,499)	35,307
Other assets	(9,363)	12,608
Accounts payable	1,602,455	(120,222)
Accrued expenses	(310,589)	449,655
Deferred revenues	(182,789)	(144,946)
Net Cash, Cash Equivalents and Restricted Cash Provided by Operating Activities	6,340,864	1,531,619
CASH FLOWS FROM INVESTING ACTIVITIES:		
Website development costs	(378,286)	(406,703)
Cash paid to purchase property and equipment	(4,770)	(18,770)
Net Cash, Cash Equivalents and Restricted Cash Used in Investing Activities	(383,056)	(425,473)
CASH FLOWS FROM FINANCING ACTIVITIES:		
Proceeds from note payable	—	8,572,400
Principal repayments of note payable	(3,300,000)	(8,080,000)
Payment of capital lease obligations	(10,694)	(9,456)
Cash paid for debt issue costs	—	(310,129)
Net Cash, Cash Equivalents and Restricted Cash (Used in) Provided by Financing Activities	(3,310,694)	172,815
Net Increase in Cash, Cash Equivalents and Restricted Cash	2,647,114	1,278,961
Cash, Cash Equivalents and Restricted Cash - Beginning of Period	1,333,084	2,639,486
Cash, Cash Equivalents and Restricted Cash - End of Period	\$3,980,198	\$3,918,447

SUPPLEMENTARY CASH FLOW INFORMATION:

Cash Paid During the Period for:

Interest	\$876,741	\$806,059
Taxes	\$3,789	\$18,193

SUPPLEMENTARY DISCLOSURE OF NON-CASH INVESTING AND FINANCING ACTIVITIES:

Purchases of property and equipment through capital leases	\$—	\$14,686
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See accompanying notes to unaudited interim condensed consolidated financial statements.

uSell.com, Inc and Subsidiaries
Notes to Interim Condensed Consolidated Financial Statements
September 30, 2018
(Unaudited)

Note 1 - Organization and Business

uSell.com, Inc., through its wholly-owned subsidiaries (collectively, “uSell,” or the “Company”), is a large market maker of used smartphones. uSell acquires products from both individual sellers, on its website, uSell.com, and from major carriers, big box retailers, and manufacturers through its subsidiary, We Sell Cellular, LLC (“We Sell Cellular”). The Company maximizes the value of these devices by reclassifying them, adding value to them, and moving them throughout the world to those who want them most. In order to serve its global and highly diverse customer base, uSell leverages both a traditional sales force and an online marketplace where professional buyers of used smartphones can buy inventory on-demand. Through participation on uSell’s online platform and through interaction with uSell’s salesforce, buyers can acquire high volumes of inventory in a cost effective manner, while minimizing risk.

Going Concern Consideration

At September 30, 2018, the Company had cash and cash equivalents of \$1,105,000, a working capital deficit of \$2,169,000 and an accumulated deficit of \$74,529,000. In addition, the Company generated a net loss of \$3,840,000 for the nine months ended September 30, 2018. As a result of the downturn in the Company’s business relating in part to the disruptions in key global markets, the Company did not meet one of the financial covenants under the January 2017 Note Purchase Agreement (“NPA”) and therefore was in default under the agreement for the quarter ended March 31, 2018. The Lender granted the Company a forbearance of existing remedies on the default until December 3, 2018 (see Notes 5 and 11). The Company does not yet have a history of financial stability and may continue to generate operating losses for the foreseeable future. Historically, the principal source of liquidity has been the issuance of debt and equity securities. These conditions raise substantial doubt about the Company’s ability to continue as a going concern within one year after the date that the condensed consolidated financial statements are issued. Management plans to address this uncertainty through further implementation of its business plan or by continuing to raise funds through debt and/or equity. There can be no assurances that the plans and actions proposed by management will be successful or that unforeseen circumstances will not require additional funding sources in the future or effectuate plans to conserve liquidity. Future efforts to raise additional funds may not be successful or they may not be available on acceptable terms, if at all. These consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty.

Note 2 - Significant Accounting Policies

Basis of Presentation

The accompanying unaudited interim condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America (“GAAP”) for interim financial information and pursuant to the instructions to Form 10-Q and Article 8 of Regulation S-X of the United States Securities and Exchange Commission (“SEC”). Certain information or footnote disclosures normally included in financial statements prepared in accordance with GAAP have been condensed or omitted, pursuant to the rules and regulations of the SEC for interim financial reporting. Accordingly, they do not include all the information and footnotes necessary for a comprehensive presentation of financial position, results of operations, or cash flows. It is management’s opinion, however, that the accompanying unaudited interim condensed consolidated financial statements include all adjustments, consisting of a normal recurring nature, which are necessary for a fair presentation of the financial position, operating results and cash flows for the periods presented.

The accompanying unaudited interim condensed consolidated financial statements should be read in conjunction with the Company’s Annual Report on Form 10-K for the year ended December 31, 2017 as filed with the SEC (the “2017 10-K”), which contains the audited financial statements and notes thereto, together with Management’s Discussion and Analysis, for the years ended December 31, 2017 and 2016. The financial information as of December 31, 2017 is derived from the audited financial statements presented in the 2017 10-K. The interim results for the three and nine months ended September 30, 2018 are not necessarily indicative of the results to be expected for the year ending December 31, 2018 or for any future interim periods.

Principles of Consolidation

The accompanying unaudited interim condensed consolidated financial statements include the accounts of uSell and its wholly-owned subsidiaries. All significant intercompany balances and transactions have been eliminated in consolidation.

Segment Information

Operating segments are identified as components of an enterprise about which separate discrete financial information is available for evaluation by the chief operating decision maker, or decision-making group, in making decisions on how to allocate resources and assess performance. The Company’s chief operating decision maker is its Chief Executive Officer. The Company and its Chief Executive Officer view the Company’s operations and manage its business as one operating segment.

uSell.com, Inc and Subsidiaries
Notes to Interim Condensed Consolidated Financial Statements
September 30, 2018
(Unaudited)

Use of Estimates

The preparation of unaudited interim condensed consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period.

Making estimates requires management to exercise significant judgment. It is at least reasonably possible that the estimate of the effect of a condition, situation or set of circumstances that existed at the date of the unaudited interim condensed consolidated financial statements, which management considered in formulating its estimate, could change in the near term due to one or more future confirming events. Accordingly, the actual results could differ significantly from our estimates.

Restricted Cash

The Company maintains a dedicated bank account with a third party custodian pursuant to which all accounts receivable and Collateral proceeds (as defined in the NPA) are deposited to this account. The Company can only access funds in this account in accordance with the terms of the NPA. This account is controlled by the Lender and is presented as restricted cash in the accompanying consolidated balance sheet.

Accounts Receivable

Accounts receivable represent obligations from the Company's customers and are recorded net of allowances for cash discounts, doubtful accounts, and sales returns. The Company's policy is to reserve for uncollectible accounts based on its best estimate of the amount of probable credit losses in its existing accounts receivable. The Company periodically reviews its accounts receivable to determine whether an allowance for doubtful accounts is necessary based on an analysis of past due accounts and other factors that may indicate that the realization of an account may be in doubt. Account balances deemed to be uncollectible are charged to the allowance after all means of collection have been

exhausted and the potential for recovery is considered remote. The allowance for doubtful accounts was \$1,317 at September 30, 2018 and \$0 at December 31, 2017.

Inventory, net

Inventory, comprised of all finished goods, is stated at the lower of cost (average cost method) or net realizable value. Inventory is recorded net of allowances.

Allowances for slow-moving or obsolete inventory are provided based on historical experience of a variety of factors, including sales volume, product life and levels of inventory at the end of the period. The inventory reserve was \$106,000 and \$285,000 as of September 30, 2018 and December 31, 2017, respectively.

Substantially all of the Company's inventory purchases are paid for before inventory is received in the Company's warehouse. Prepaid inventory amounted to approximately \$212,000 and \$474,000 at September 30, 2018 and December 31, 2017, respectively, and is included in inventory, net in the accompanying condensed consolidated balance sheets.

Revenue Recognition

The Company adopted Accounting Standards Codification ("ASC") 606 – Revenue from Contracts with Customers ("ASC 606") as of January 1, 2018 using the modified retrospective method. This method allows the Company to apply ASC 606 to new contracts entered into after January 1, 2018, and to its existing contracts for which revenue earned through December 31, 2017 has been recognized under the guidance in effect prior to the effective date of ASC 606. The revenue recognition processes the Company applied prior to adoption of ASC 606 align with the recognition and measurement guidance of the new standard, therefore adoption of ASC 606 did not require a cumulative adjustment to opening equity.

Under ASC 606, a performance obligation is a promise within a contract to transfer a distinct good or service, or a series of distinct goods and services, to a customer. Revenue is recognized when performance obligations are satisfied and the customer obtains control of promised goods or services. The amount of revenue recognized reflects the consideration to which the Company expects to be entitled to receive in exchange for goods or services. Under the standard, a contract's transaction price is allocated to each distinct performance obligation. To determine revenue recognition for arrangements that the Company determines are within the scope of ASC 606, the Company performs the following five steps: (i) identifies the contracts with a customer; (ii) identifies the performance obligations within the contract, including whether they are distinct and capable of being distinct in the context of the contract; (iii) determines the transaction price; (iv) allocates the transaction price to the performance obligations in the contract; and (v) recognizes revenue when, or as, the Company satisfies each performance obligation.

uSell.com, Inc and Subsidiaries
Notes to Interim Condensed Consolidated Financial Statements
September 30, 2018
(Unaudited)

Principal Device Revenue

The Company, through We Sell Cellular, generates revenue from the sales of its cellular telephones and related equipment. The Company recognizes revenue “FOB shipping point” on such sales. Delivery to the customer is deemed to have occurred when the customer takes title to the product. Generally, title passes to the customer when the products leave the Company’s warehouse. Payment terms generally require payment once an order is placed. The Company allows customers to return product within 30 days of shipment if the product is defective. Allowances for product returns are recorded as a reduction of sales at the time revenue is recognized based on historical data. The estimate of the allowance for product returns amounted to approximately \$358,000 and \$267,000 at September 30, 2018 and December 31, 2017, respectively, and is recorded in accrued expenses in the accompanying condensed consolidated balance sheets.

Agent Commission Revenue

Sellers on the Company’s uSell.com website are shown a list of offers from third party buyers interested in purchasing their devices. If a seller chooses one of these offers, the seller will ship their device directly to the buyer. The buyer is then responsible for testing the device, servicing the customer, and ultimately paying the seller for the device or returning it. The Company charges a commission to the buyers only when the seller sends in a device and is successfully paid for it. As such, the Company recognizes Agent Commission Revenue upon payment to the seller.

Fulfillment Revenue

The Company offers fulfillment services on behalf of its buyers for the items sold using the Agent Commission Revenue approach outlined above. The Company acts as the agent in these fulfillment services transactions, passing orders booked by its buyers to its third party fulfillment vendor, who then assembles the kits and mails them directly to the sellers. The Company earns a standard fee from its buyers and recognizes revenue upon shipment of the kits to the sellers. The Company evaluated the presentation of revenue on a gross versus net basis and determined that since the Company performs as an agent without assuming the risks and rewards of ownership of the goods, revenue should be reported on a net basis.

Advertising Revenue

Advertising revenues primarily come from payments for text-based sponsored links and display advertisements. Generally, the Company's advertisers pay the Company on a cost per click, or CPC basis, which means advertisers pay only when someone clicks on one of their advertisements, or on a cost per thousand impression basis, or CPM. Paying on a CPM basis means that advertisers pay the Company based on the number of times their advertisements appear on the Company's websites or mobile applications. Advertising revenue is recognized as income when the advertising services are rendered.

Deferred revenue represents amounts billed to customers or payments received from customers prior to providing services and for which the related revenue recognition criteria have not been met.

Shipping and Handling Costs

Shipping and handling costs included in cost of revenue were approximately \$49,000 and \$146,000 for the three months ended September 30, 2018 and 2017, respectively, and approximately \$173,000 and \$468,000 for the nine months ended September 30, 2018 and 2017, respectively.

Advertising

Advertising costs are expensed as they are incurred and are included in sales and marketing expenses. Advertising expense amounted to approximately \$5,000 and \$7,000 for the three months ended September 30, 2018 and 2017, respectively, and approximately \$20,000 and \$31,000 for the nine months ended September 30, 2018 and 2017, respectively.

uSell.com, Inc and Subsidiaries
Notes to Interim Condensed Consolidated Financial Statements
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(Unaudited)

Concentration of Credit Risk

Financial instruments that potentially subject the Company to concentrations of credit risk consist primarily of cash and accounts receivable.

The Company minimizes credit risk associated with cash by periodically evaluating the credit quality of its primary financial institutions. At times, the Company's cash may be uninsured or in deposit accounts that exceed the Federal Deposit Insurance Corporation ("FDIC") insurance limit. At September 30, 2018 and December 31, 2017, the Company had not experienced losses on these accounts and management believes the Company is not exposed to significant risks on such accounts.

Concentrations of credit risk with respect to accounts receivables is minimal due to the large number of customers comprising the Company's customer base and generally short payment terms.

Fair Value of Financial Instruments

Financial instruments, including cash and cash equivalents, accounts receivable and accounts payable are carried at cost, which management believes approximates fair value due to the short-term nature of these instruments. The fair value of debt approximates its carrying amounts as a market rate of interest is attached to the repayment.

Net Loss per Share

Basic loss per share ("EPS") is computed by dividing net loss available to common stockholders by the weighted average number of common shares outstanding during the period, excluding the effects of any potentially dilutive securities. Diluted EPS gives effect to all dilutive potential of shares of common stock outstanding during the period, including stock options and warrants, using the treasury stock method, and convertible debt or convertible preferred

stock, using the if-converted method. Diluted EPS excludes all dilutive potential of shares of common stock if their effect is anti-dilutive.

The computation of diluted EPS excludes the common stock equivalents of the following potentially dilutive securities because their inclusion would be anti-dilutive:

	Nine Months Ended	
	September 30,	
	2018	2017
Unvested Restricted Stock	65,834	141,666
Vested and Unvested Restricted Stock Units	476,353	743,020
Stock Options	427,333	503,667
Stock Warrants	797,083	797,083
	1,766,603	2,185,436

Recent Accounting Pronouncements

In May 2014, the Financial Accounting Standard Board (the “FASB”) issued ASU No. 2014-09, “Revenue from Contracts with Customers” (“ASU 2014-09”). ASU 2014-09 provides guidance for revenue recognition and affects any entity that either enters into contracts with customers to transfer goods or services or enters into contracts for the transfer of nonfinancial assets and supersedes the revenue recognition requirements in Topic 605, “Revenue Recognition,” and most industry-specific guidance. The core principle of ASU 2014-09 is the recognition of revenue when a company transfers promised goods or services to customers in an amount that reflects the consideration to which the company expects to be entitled to in exchange for those goods or services. ASU 2014-09 defines a five-step process to achieve this core principle and, in doing so, companies will need to use more judgment and make more estimates than under the current guidance. These may include identifying performance obligations in the contract, estimating the amount of variable consideration to include in the transaction price and allocating the transaction price to each separate performance obligation. ASU 2014-09 was initially effective for fiscal years beginning after December 15, 2016 and interim periods therein, using either of the following transition methods: (i) a full retrospective approach reflecting the application of the standard in each prior reporting period with the option to elect certain practical expedients, or (ii) a retrospective approach with the cumulative effect of initially adopting ASU 2014-09 recognized at the date of adoption (which includes additional footnote disclosures). Early adoption is not permitted. The Company adopted the standard on January 1, 2018 using the modified retrospective transition method. The adoption of this standard did not have a material effect on the Company’s financial position or results of operations.

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In February 2016, the FASB issued ASU No. 2016-02, “Leases” (“ASU 2016-02”). In September 2017, the FASB issued ASU 2017-13, “Revenue Recognition (Topic 605), Revenue from Contracts with Customers (Topic 606), Leases (Topic 840), and Leases (Topic 842)”, which provides additional implementation guidance on the previously issued ASU 2016-02. ASU 2016-02 increases transparency and comparability among organizations by reporting lease assets and lease liabilities, both finance (capital) and operating leases, on the balance sheet and disclosing key information about leasing arrangements. Public business entities should apply the amendments in ASU 2016-02 for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years. Early application is permitted upon issuance. Lessees (for capital and operating leases) and lessors (for sales-type, direct financing, and operating leases) must apply a modified retrospective transition approach for leases existing at, or entered into after, the beginning of the earliest comparative period presented in the financial statements. The modified retrospective approach would not require any transition accounting for leases that expired before the earliest comparative period presented. Lessees and lessors may not apply a full retrospective transition approach. The Company is currently evaluating the impact of the new guidance on its condensed consolidated financial statements.

In August 2016, the FASB issued ASU No. 2016-15, “Statement of Cash Flows: Clarification of Certain Cash Receipts and Cash Payments” (“ASU 2016-15”), which eliminates the diversity in practice related to the classification of certain cash receipts and payments in the statement of cash flows, by adding or clarifying guidance on eight specific cash flow issues: debt prepayment or debt extinguishment costs; settlement of zero-coupon debt instruments or other debt instruments with coupon interest rates that are insignificant in relation to the effective interest rate of the borrowing; contingent consideration payments made after a business combination; proceeds from the settlement of insurance claims; proceeds from the settlement of corporate-owned life insurance policies (including bank-owned life insurance policies); distributions received from equity method investees; beneficial interests in securitization transactions; and separately identifiable cash flows and application of the predominance principle. ASU 2016-15 is effective for annual and interim periods beginning after December 15, 2017 and early adoption is permitted. ASU 2016-15 provides for retrospective application for all periods presented. The Company adopted the standard on January 1, 2018. The adoption of this standard did not have a material effect on the Company’s financial position or results of operations.

In October 2016, the FASB issued ASU No. 2016-16, “Income Taxes (Topic 740)” (“ASU 2016-16”), which reduces the complexity in the accounting standards by allowing the recognition of current and deferred income taxes for an intra-entity asset transfer, other than inventory, when the transfer occurs. ASU 2016-16 is effective for fiscal years beginning after December 15, 2017, and interim periods within those fiscal years, with early adoption permitted using a modified retrospective transition approach. The Company adopted the standard on January 1, 2018. The adoption of this standard did not have a material effect on the Company’s financial position or results of operations.

In November 2016, the FASB issued ASU 2016-18, “Statement of Cash Flows (Topic 230): Restricted Cash” (“ASU 2016-18”), providing specific guidance on the cash flow classification and presentation of changes in restricted cash and restricted cash equivalents. ASU 2016-18 is effective for fiscal years beginning after December 15, 2017 and is to be applied retrospectively. The Company adopted the standard on January 1, 2018. Effective with the adoption of the new guidance, the Company changed the presentation of restricted cash in its consolidated statements of cash flows to conform to the new requirements.

In January 2017, the FASB issued ASU 2017-01, “Business Combinations (Topic 805) Clarifying the Definition of a Business” (“ASU 2017-01”). The amendments in ASU 2017-01 clarify the definition of a business with the objective of adding guidance to assist entities with evaluating whether transactions should be accounted for as acquisitions (or disposals) of assets or businesses. The definition of a business affects many areas of accounting including acquisitions, disposals, goodwill, and consolidation. The guidance is effective for annual periods beginning after December 15, 2017, including interim periods within those periods. The Company adopted the standard on January 1, 2018. The adoption of this standard did not have an effect on the Company’s financial position or results of operations.

In May 2017, the FASB issued ASU 2017-09, “Compensation - Stock Compensation (Topic 718): Scope of Modification Accounting” (“ASU 2017-09”). ASU 2017-09 provides clarity and reduces both (i) diversity in practice and (ii) cost and complexity when applying the guidance in Topic 718, Compensation-Stock Compensation, to a change to the terms or conditions of a share-based payment award. The amendments in ASU 2017-09 provide guidance about which changes to the terms or conditions of a share-based payment award require an entity to apply modification accounting in Topic 718. ASU 2017-09 is effective for all annual periods, and interim periods within those annual periods, beginning after December 15, 2017, with early adoption permitted. The Company adopted the standard on January 1, 2018. The adoption of this standard did not have an effect on the Company’s financial position or results of operations.

In June 2018, the FASB issued ASU 2018-07, “Compensation — Stock Compensation (Topic 718): Improvements to Nonemployee Share-Based Payment Accounting” (“ASU 2018-07”), which expands the scope of Topic 718 to include all share-based payment transactions for acquiring goods and services from nonemployees. ASU 2018-07 specifies that Topic 718 applies to all share-based payment transactions in which the grantor acquires goods and services to be used or consumed in its own operations by issuing share-based payment awards. ASU 2018-07 also clarifies that Topic 718 does not apply to share-based payments used to effectively provide (1) financing to the issuer or (2) awards granted in conjunction with selling goods or services to customers as part of a contract accounted for under ASC 606. ASU 2018-07 is effective for annual reporting periods, and interim periods within those years, beginning after December 15, 2018. The Company is currently evaluating the impact of adopting this guidance on its condensed consolidated financial statements.

uSell.com, Inc and Subsidiaries
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September 30, 2018
(Unaudited)

Note 3 - Intangible Assets

Intangible assets, net is as follows:

	Useful Lives	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
	(Years)			
September 30, 2018				
Trade Name	7	\$2,622,000	\$ (1,092,490)	\$ 1,529,510
Customer Relationships	5	2,008,000	(1,171,345)	836,655
eBay Reputation Relationship	1	369,000	(369,000)	—
Non-Compete Agreement	1	283,000	(283,000)	—
Intangible assets, net		\$5,282,000	\$ (2,915,835)	\$2,366,165

	Useful Lives	Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
	(Years)			
December 31, 2017				
Trade Name	7	\$2,622,000	\$ (811,564)	\$ 1,810,436
Customer Relationships	5	2,008,000	(870,142)	1,137,858
eBay Reputation Relationship	1	369,000	(369,000)	—
Non-Compete Agreement	1	283,000	(283,000)	—
Intangible assets, net		\$5,282,000	\$ (2,333,706)	\$2,948,294

Intangible assets are amortized on a straight-line basis over their estimated useful lives. Amortization expense amounted to \$194,000 for the three months ended September 30, 2018 and 2017 and \$582,000 for the nine months ended September 30, 2018 and 2017.

Future annual estimated amortization expense is summarized as follows:

Years ending December 31,	
2018 (remaining three months)	\$ 194,043
2019	776,171
2020	709,226
2021	374,571
2022	312,154
	\$2,366,165

Note 4 – Capitalized Technology, Net

Capitalized technology consists of the following:

	September 30, 2018	December 31, 2017
Gross value	\$4,085,974	\$3,707,688
Accumulated amortization	(3,262,836)	(2,839,239)
Net value	\$823,138	\$868,449

Capitalized technology is amortized on a straight-line basis over estimated useful lives of three years. Amortization expense amounted to \$139,000 and \$150,000 for the three months ended September 30, 2018 and 2017, respectively, and \$424,000 and \$456,000 for the nine months ended September 30, 2018 and 2017, respectively, and is included in cost of revenue.

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Future annual estimated amortization expense is summarized as follows:

Years ending December 31,	
2018 (remaining three months)	\$ 133,090
2019	416,748
2020	222,515
2021	50,785
	\$823,138

Note 5 - Promissory Note

At September 30, 2018, the Company's Note (as defined below) is comprised of the following:

Total Notes	\$5,779,219
Less: Unamortized discount and debt issue costs	(214,173)
Total Notes, net of unamortized discount and debt issue costs	\$5,565,046

As a result of the downturn in the Company's business relating in part to the disruptions in key global markets, the Company did not meet one of the financial covenants under the NPA and therefore was in default under the agreement for the quarter ended March 31, 2018. The Company entered into a series of forbearance and amendment agreements with the Lender, pursuant to which the Lender granted the Company a forbearance of existing remedies of its default under one if its financial covenants (the "Default") until September 30, 2018. On October 1, 2018, the Company entered into a Forbearance and Fifth Amendment Agreement (the "Fifth Amendment") extending the Lender's forbearance until December 3, 2018 (see Note 11). In addition, the Company amended the terms of its financial covenant related to its operating margin requirements and debt coverage ratio and repaid \$3,304,068 of the NPA during the quarter ended September 30, 2018, inclusive of \$4,068 of accrued interest. As consideration for entering into the amendments, the Company agreed to pay the Lender a sum of \$187,600, which sum was added to the principal balance of the NPA. In addition, during the three months ended September 30, 2018, the Company added an aggregate of \$231,600 of interest due to the Lender to the principal balance of the NPA. As a result of these transactions, the principal balance of the Note was increased to \$5,779,219.

On May 4, 2018, the Company entered into a Second Amended and Restated Secured Term Note, pursuant to which the NPA's interest rate was increased from 15.0% to 16.0% commencing June 1, 2018. The maturity date for the NPA remained at January 13, 2020. The Company cannot provide assurance that it will be able to meet its financial covenants for the quarter ended December 31, 2018 and cannot provide assurance that the Lender will continue to provide a forbearance. If the Company is unable to obtain a waiver from the Lender, the Lender will be able to foreclose on all of the Company's assets and the Company will have to cease operations. Accordingly, the Company has classified the NPA as a current liability.

The Company maintains a dedicated bank account with a third party custodian pursuant to which all accounts receivable and Collateral proceeds (as defined in the NPA) are deposited to this account. The Company can only access funds in this account in accordance with the terms of the NPA. This account is controlled by the Lender and is presented as restricted cash in the accompanying condensed consolidated balance sheet.

The Company recorded a discount on the secured term note (the "Note") of \$88,000 which is being accreted to non-cash interest expense over the contractual term of the Note. During the three months ended September 30, 2018 and 2017, accretion of the discount amounted to \$7,000 and \$7,000, respectively. During the nine months ended September 30, 2018 and 2017, accretion of the discount amounted to \$22,000 and \$7,000, respectively. Contractual interest expense on the Note amounted to \$240,000 and \$299,000 for the three months ended September 30, 2018 and 2017, respectively, and \$839,000 and \$867,000 for the nine months ended September 30, 2018 and 2017, respectively.

The Company incurred fees associated with the closing of the Note of \$360,000. These amounts have been treated as a debt issue cost and, accordingly, have been recorded as a direct deduction from the carrying amount of Note and are being amortized to interest expense over the contractual term of the Note. During the three months ended September 30, 2018 and 2017, accretion of the fees amounted to \$33,000 and \$30,000, respectively. During the nine months ended September 30, 2018 and 2017, accretion of the fees amounted to \$99,000 and \$78,000, respectively.

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Note 6 – Special Purpose Entity

On January 13, 2017, the Company and the Lender (the “Manager”) formed a special purpose entity as a Delaware limited liability company (the “SPE”), for the purpose of purchasing, refurbishing, repairing and reselling cell phones, smart phones, tablets and related accessories. The Manager is the sole manager of the SPE. The Manager invested \$5,200,000 in equity in exchange for all of the membership interests. Of this sum, \$5,000,000 was to be used by the SPE for the purchase of approved inventory. Profits from the SPE were to be distributed to the Manager and to the Company based on certain return thresholds, as defined in Limited Liability Company Agreement.

The Company and the Manager dissolved the SPE during the quarter ended June 30, 2018. All cash proceeds and remaining cash proceeds from inventory in the SPE went to the Manager, except for:

- i. \$20,000 of proceeds that went to the Company for reimbursement of expenses under the Services Agreement, with the Company waiving any other current or future fees under the Services Agreement and
- ii. Approximately \$13,000 for third party legal or accounting costs and filing fees for dissolving the SPE.

The Company provided all administrative, inventory and cash management services necessary to the SPE’s daily operations pursuant to a Services Agreement entered into between the Company and the SPE. The Company and its personnel were not compensated for providing services to the SPE, and the Company was generally responsible for the costs of providing services to the SPE. However, the SPE was responsible for costs directly related to acquiring and refurbishing the SPE’s inventory, shipping, certain tax accounting fees approved by the Manager, and other costs. The Services Agreement allowed the Company to purchase inventory for its account and not for the SPE’s account until the Company had no available capital to purchase inventory.

The Company conducted an evaluation of its involvement with the SPE, which was considered to be a related party business entity in order to determine whether the SPE was a variable interest entity (“VIE”) requiring consolidation or disclosure in the condensed consolidated financial statements of the Company. The SPE was determined to be a related party business entity because the Manager of the SPE was also the Lender to the Company’s NPA, as described in Note 5. The Company evaluated the purpose for which the SPE was created and the nature of the risks in the entity

as required by the guidance under ASC 810-10-25, "Consolidation." Based upon the Company's analysis, the Company concluded that it was not the primary beneficiary, and therefore, no consolidation was necessary.

There were no expense reimbursements recorded for the three months ended September 30, 2018. Expense reimbursements for the three months ended September 30, 2017 amounted to \$139,000, of which \$100,000 was recorded in cost of revenues and \$39,000 was recorded in sales and marketing. Expense reimbursements for the nine months ended September 30, 2018 amounted to \$78,000, of which \$59,000 was recorded in cost of revenues and \$19,000 was recorded in sales and marketing. Expense reimbursements for the nine months ended September 30, 2017 amounted to \$402,000, of which \$261,000 was recorded in cost of revenues and \$141,000 was recorded in sales and marketing. There were no profit distributions made to the Company from the SPE during the three and nine months ended September 30, 2018 and 2017.

Note 7 – Capital Lease Obligations

We are obligated under capital leases under which the aggregate present value of the minimum lease payments amounted to \$56,000. The present value of the minimum lease payments was calculated using a discount rate of 8.6%. The future minimum lease payments under the capital lease at September 30, 2018 is as follows:

Years ending December 31,	
2018 (remaining three months)	\$4,653
2019	18,611
2020	18,611
2021	13,506
2022	549
	55,930
Less: Amounts representing interest	6,171
Principal portion	49,759
Less: Current portion	15,273
Capital lease obligations, net of current portion	\$34,486

The capital lease obligations are collateralized by underlying property and equipment. As of September 30, 2018, the gross amount of property and equipment under non-cancelable capital leases was \$80,000 and the amount of accumulated amortization was \$29,000.

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Note 8 - Commitments and Contingencies

Management Incentive Compensation Plan

On July 27, 2016, the Company adopted its Management Incentive Compensation Plan (the “Incentive Plan”). The Incentive Plan provides that each quarter that the Company meets certain gross EBITDA thresholds, participants will be eligible to receive quarterly bonuses. The Incentive Plan was effective through September 2018. The Incentive Plan provides for minimum bonus eligibility thresholds set at quarterly gross EBITDA levels that ensure that the Company will remain cash-flow positive and in compliance with all debt covenants over the term after payment of bonuses. If the Company does not meet the minimum EBITDA threshold in a given quarter, no bonus is payable under the Incentive Plan for that quarter. Bonuses will be subject to adjustment in the event the Company’s year-end audit results in restatement of a prior quarter’s EBITDA. Effective March 16, 2018, Mr. Nik Raman’s base salary was reduced to \$100,000 and Brian Tepfer and Scott Tepfer’s base salaries were reduced to \$150,000 per year. Each of them also agreed to waive any bonuses due to them under the Incentive Plan.

For the three months ended September 30, 2018 and 2017, a total of \$0 and \$180,000, respectively, was earned under the Incentive Plan. As of September 30, 2018 and December 31, 2017, \$0 and \$90,000 is included in accrued expenses.

Legal Proceedings

From time to time, the Company is a party to or otherwise involved in legal proceedings arising in the normal and ordinary course of business. As of the date of this report, the Company is not aware of any proceeding, threatened or pending, against the Company which, if determined adversely, would have a material effect on its business, results of operations, cash flows or financial position.

Operating Leases

The Company leases space for its warehouse and office under a lease that expires in September 2021. The lease contains provisions requiring the Company to pay maintenance, property taxes and insurance and require scheduled rent increases. Rent expense is recognized on a straight-line basis over the terms of the leases.

Rent expense, amounting to \$92,000 and \$86,000 for the three months ended September 30, 2018 and 2017, respectively, and \$263,000 and \$260,000 for the nine months ended September 30, 2018 and 2017, respectively, is included in general and administrative expense in the accompanying condensed consolidated statements of operations.

Note 9 - Stock-Based Compensation

Stock Option Grants

The following table summarizes the Company's stock option activity for the nine months ended September 30, 2018:

		Weighted	Average	
	Number	Average	Remaining	Aggregate
	of	Exercise	Contractual	Intrinsic
	Options	Price	Life	Value
			(in Years)	
Outstanding - December 31, 2017	482,000	\$ 1.39	3.2	\$ —
Granted	—	—		
Exercised	—	—		
Forfeited or Canceled	(54,667)	(1.72)		
Outstanding – September 30, 2018	427,333	\$ 1.35	2.4	\$ —
Exercisable – September 30, 2018	289,834	\$ 1.65	1.9	\$ —

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The Company recorded non-cash compensation expense of \$15,000 and \$17,000 for the three months ended September 30, 2018 and 2017, respectively, and \$47,000 and \$28,000 for the nine months ended September 30, 2018 and 2017, respectively, pertaining to stock option grants.

Total unrecognized compensation expense related to unvested stock options at September 30, 2018 amounts to \$75,000 and is expected to be recognized over a weighted average period of 1.6 years.

The following table summarizes the Company's stock option activity for non-vested options for the nine months ended September 30, 2018:

	Number of Options	Weighted Average Grant Date Fair Value
Balance at December 31, 2017	240,832	\$ 0.59
Granted	—	—
Vested	(76,666)	(0.62)
Forfeited or Canceled	(26,667)	(0.57)
Balance at September 30, 2018	137,499	\$ 0.58

Warrants

As of September 30, 2018 and December 31, 2017, there were 797,083 warrants outstanding and exercisable, with a weighted average exercise price of \$3.19 per share. The weighted average remaining contractual life of the warrants outstanding and exercisable at September 30, 2018 and December 31, 2017 was 0.8 and 1.6 years, respectively, and the aggregate intrinsic value was \$0.

The Company did not grant any warrants to purchase shares of common stock during the three and nine months ended September 30, 2018 and 2017.

There was no expense pertaining to warrants recorded during the three and nine months ended September 30, 2018 and 2017.

Restricted Stock Awards and Restricted Stock Units

During the nine months ended September 30, 2018, the Company granted 18,000 fully vested shares of common stock to an advisor for services provided. The fair value of the common stock on the dates of grant ranged from \$0.03 to \$0.36 per share, based upon the closing market price on the grant dates. The aggregate grant date fair value of the awards amounted to \$3,000, of which \$1,000 and \$3,000 was recorded as compensation expense during the three and nine months ended September 30, 2018, respectively.

During the three months ended March 31, 2018, the Company awarded 45,000 shares of restricted common stock to an employee for services provided. The restricted common stock vests quarterly over three years, beginning on the date of grant. The fair value of the common stock on the date of grant was \$0.49 per share, based upon the closing market price on the grant date. The aggregate grant date fair value of the award amounted to \$22,050, of which \$2,000 and \$6,000 was recorded as compensation expense during the three and nine months ended September 30, 2018, respectively.

A summary of the restricted stock award and restricted stock unit activity for the nine months ended September 30, 2018 is as follows:

	Number of Shares
Unvested Outstanding at December 31, 2017	380,000
Granted	63,000
Forfeited	(16,667)
Vested	(258,416)
Unvested Outstanding at September 30, 2018	167,917

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The Company recorded non-cash compensation expense of \$64,000 and \$115,000 for the three months ended September 30, 2018 and 2017, respectively, and \$214,000 and \$346,000 for the nine months ended September 30, 2018 and 2017, respectively.

Total unrecognized compensation expense related to unvested stock awards and unvested restricted stock units at September 30, 2018 amounts to \$50,000 and is expected to be recognized over a weighted average period of 0.8 years.

Note 10 – Customer and Vendor Concentrations

Customer Concentration

During the three months ended September 30, 2018 and 2017, no customers represented 10% or more of the Company's revenues. During the three months ended September 30, 2018, 53%, 35% and 2% of the Company's revenues, respectively, were originated in the United States, Europe and Hong Kong, respectively. During the three months ended September 30, 2017, 62%, 19% and 13% of the Company's revenues, respectively, were originated in the United States, Europe and Hong Kong, respectively.

During the nine months ended September 30, 2018 and 2017, no customers represented 10% or more of the Company's revenues. During the nine months ended September 30, 2018, 58%, 31% and 3% of the Company's revenues, respectively, were originated in the United States, Europe and Hong Kong, respectively. During the nine months ended September 30, 2017, 67%, 16% and 12% of the Company's revenues, respectively, were originated in the United States, Europe and Hong Kong, respectively.

At September 30, 2018, two customers represented at least 10% of accounts receivable, each accounting for 15% of the Company's accounts receivable. At December 31, 2017, two customers represented at least 10% of accounts receivable, accounting for 26% and 18% of the Company's accounts receivable.

Vendor Concentration

During the three months ended September 30, 2018, three vendors represented 10% or more of purchases, accounting for 37%, 28% and 13% of the Company's purchases. During the three months ended September 30, 2017, three vendors represented at least 10% of purchases, accounting for 34%, 33% and 16% of the Company's purchases.

During the nine months ended September 30, 2018, four vendors represented 10% or more of purchases, accounting for 34%, 25%, 13% and 11% of the Company's purchases. During the nine months ended September 30, 2017, two vendors represented at least 10% of purchases, accounting for 57% and 20% of the Company's purchases.

At September 30, 2018 and December 31, 2017, one vendor represented 10% or more of accounts payable, accounting for 65% and 82% of accounts payable, respectively.

Note 11 – Subsequent Events

The Company evaluates subsequent events and transactions that occur after the balance sheet date up to the date that the financial statements were issued for potential recognition or disclosure. Other than as described, the Company did not identify any subsequent events that would have required adjustment or disclosure in the financial statements.

Effective October 1, 2018, the Company and the Lender entered into a Forbearance and Fifth Amendment Agreement (the "Amendment") to the NPA, pursuant to which the Lender agreed to extend the forbearance of existing remedies of default under the NPA until December 3, 2018. In addition, the Amendment amended the operating margin requirements and debt coverage ratio under the NPA.

As consideration for entering into the Amendment, the Company agreed to pay the Lender an initial forbearance fee of \$250,000 on the October 1, 2018, with additional forbearance fees accruing on November 19, 2018, November 26, 2018, and December 3, 2018, of \$100,000, \$125,000, and \$150,000, respectively (collectively the "Additional Forbearance Fees") unless the loan is paid in full. Notwithstanding the above-mentioned accrual dates, the Additional Forbearance Fees are automatically due and payable upon the event of a Forbearance Default, as defined in the NPA. The Company owed \$6,029,219 under the NPA as of October 1, 2018. Subsequent to October 1, 2018, the Company made a payment to the Lender bringing the balance due under the NPA to \$5,029,219. Pursuant to the terms of the Amendment the Lender agreed to waive the prepayment penalty and accrued default interest under the NPA if the loan is paid in full prior to November 16, 2018.

The Company is in the process of finalizing a new loan agreement with a new senior secured lender, borrowing \$4,780,000 from a limited number of investors through the issuance of four-year convertible notes convertible at \$0.30 per share and entering into a significant license with a third party relating to the use of the Company's technology.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.

The following discussion and analysis should be read in conjunction with our unaudited interim condensed consolidated financial statements and related notes appearing elsewhere in this report on Form 10-Q. In addition to historical information, this discussion and analysis contains forward-looking statements that involve risks, uncertainties, and assumptions. Our actual results may differ materially from those anticipated in these forward-looking statements as a result of certain factors, including but not limited to those set forth under "Risk Factors" in the 2017 10-K.

The content included on uSell.com and wesellcellular.com is not incorporated in this report.

Overview

uSell is a large market maker of used smartphones. uSell acquires products from both individual sellers, on its website, uSell.com, and from major carriers, big box retailers, and manufacturers through its subsidiary, We Sell Cellular. The Company maximizes the value of these devices by reclassifying them, adding value to them, and moving them throughout the world to those who want them most. In order to serve its global and highly diverse customer base, uSell leverages both a traditional sales force and an online marketplace where professional buyers of used smartphones can buy inventory on-demand. Through participation on uSell's online platform and through interaction with uSell's salesforce, buyers can acquire high volumes of inventory in a cost effective manner, while minimizing risk.

Device Acquisition

uSell has two primary means of sourcing devices to satisfy demand from its global base of customers. The first source is through its wholly-owned subsidiary, We Sell Cellular, which was acquired in the fourth quarter of 2015. We Sell Cellular is among a handful of top tier wholesalers whose primary business is to buy used smartphones that have been traded in with the major carriers and the big box retailers, fully inspect and grade these devices, and then sell these devices wholesale and retail through its highly experienced sales force. We Sell Cellular is one of a select group of wholesalers that has qualified for R2 certification, the industry standard for both data destruction and environmental protection.

uSell's second method of sourcing devices is through its website, uSell.com, where individual consumers can find cash offers for their items based on the make, model, and condition of each item. Upon accepting an offer, consumers can ship their devices for free using either a prepaid shipping kit or shipping label, and then track the progress of their orders online from initiation to final payment of their devices. We have historically utilized consumer oriented advertising efforts, such as direct response television commercials and various forms of Internet advertising, to attract sellers to our website. However, during 2015, we decided to strategically reduce our marketing spend in favor of seeking out wholesale supply.

Device Disposition

We sell devices through three primary means:

- Utilizing our proprietary marketplace bidding platforms where buyers can source devices on demand
- Employing our highly experienced sales force to sell devices to its global client base
- Leveraging third party eCommerce platforms such as eBay and Amazon

While a minority of our product is sold directly to consumers via third party eCommerce platforms, the majority of our sales are to professional buyers. These buyers include brick and mortar retailers, online retailers, large and small wholesalers, small repair shops, large refurbishing providers, and insurance companies. Approximately sixty percent of our customer base is in the United States, with the balance abroad. We are able to provide all of our buyers with a low risk, cost-efficient way to acquire inventory. Through participation on uSell's online marketplace or through interaction with our salesforce, our buyers gain access to the high volume of devices that we acquire through both wholesale and retail means, without taking on the risk and investment involved in marketing directly to consumers or purchasing directly from carriers, big box retailers, and manufacturers.

Revenue Model

We generate revenue by either taking possession of devices and selling these devices for a premium (“Principal Device Revenue”) or by facilitating transactions between buyers and sellers and collecting a commission (“Agent Commission Revenue”). The bulk of our revenue is from Principal Device Revenue.

Business derived from our uSell.com website utilizes an Agent Commission Revenue model, whereby we do not take possession of the devices that are sold to us by sellers, but rather facilitate transactions between these consumers and our network of professional buyers. Historically, some of the devices we acquired through our usell.com website utilized our Managed by uSell service, whereby we partnered with a third party logistics company to inspect and process devices before passing them along to buyers offering the highest prices for each device. Through this approach, we took possession of devices for a brief period of time before they were passed on to the ultimate buyer. However, by the end of 2016, we shut down our Managed by uSell service and shifted all of our business from uSell.com to the Agent Commission Revenue model.

Devices sourced wholesale through our subsidiary, We Sell Cellular, are all bought and sold using the Principal Device Revenue model. Given that our wholesale sourcing channel is substantially larger than our retail sourcing channel, the vast majority of our business is characterized by the Principal Device Revenue approach.

Critical Accounting Policies

In response to financial reporting release FR-60, Cautionary Advice Regarding Disclosure About Critical Accounting Policies, from the SEC, we have selected our more subjective accounting estimation processes for purposes of explaining the methodology used in calculating the estimate, in addition to the inherent uncertainties pertaining to the estimate and the possible effects on the our financial condition. The accounting estimates involve certain assumptions that, if incorrect, could have a material adverse impact on our results of operations and financial condition. Our more significant accounting policies can be found in Note 2 of our unaudited interim condensed consolidated financial statements found elsewhere in this report and in our 2017 10-K. There have been no material changes to our Critical Accounting Policies during the period covered by this report.

Results of Operations

2018 Financial Highlights

Key financial metrics are as follows:

Revenues decreased by \$11,695,000, or 41%, to \$17,178,000 for the three months ended September 30, 2018, from \$28,873,000 for the three months ended September 30, 2017.

Revenues decreased by \$30,532,000, or 38%, to \$50,610,000 for the nine months ended September 30, 2018, from \$81,142,000 for the nine months ended September 30, 2017.

We had a gross profit of \$1,037,000 for the three months ended September 30, 2018, compared to a gross profit of \$1,558,000 for the same quarter of 2017.

We had a gross profit of \$1,022,000 for the nine months ended September 30, 2018, compared to a gross profit of \$5,278,000 for the same period of 2017.

Operating loss decreased by \$274,000, or 95%, to \$14,000 for the three months ended September 30, 2018, from \$288,000 for the three months ended September 30, 2017.

Operating loss increased by \$2,142,000, or 392%, to \$2,689,000 for the nine months ended September 30, 2018, from \$547,000 for the nine months ended September 30, 2017.

Net loss for the three months ended September 30, 2018 was \$483,000, compared to \$625,000 for the three months ended September 30, 2017.

Net loss for the nine months ended September 30, 2018 was \$3,840,000, compared to \$2,520,000 for the nine months ended September 30, 2017.

Adjusted EBITDA, a non-GAAP financial measure, was \$413,000 for the three months ended September 30, 2018, compared to \$203,000 for the three months ended September 30, 2017. See “Non-GAAP Financial Measure - Adjusted EBITDA” below.

Adjusted EBITDA was \$(1,377,000) for the nine months ended September 30, 2018, compared to \$909,000 for the nine months ended September 30, 2017. See “Non-GAAP Financial Measure - Adjusted EBITDA” below.

We had a working capital deficit of \$2,169,000 at September 30, 2018.

During the first six months of 2018, we faced substantial challenges due to our inventory position, which was primarily the result of two factors: Apple’s atypical release of two devices in Q4 2017, which created a highly uncertain and volatile pricing environment, and disruptions in key global markets that lasted through the end of Q1 2018. By the middle of Q2 2018, we had liquidated all of our problem inventory, and the market had begun to rebound. This rebound continued throughout Q3 of 2018, which resulted in positive EBITDA and substantially higher gross margins.

Despite challenging market conditions during the first half of the year, we made substantial progress along two fronts: we transitioned the vast majority of our We Sell Cellular business online and we dramatically diversified our supplier base. We believe that we have now completed all of the major components of our online platform and have validated the value of our approach. Since launching the platform, we have observed meaningful improvements in many of our key metrics regarding customer growth, customer loyalty, and sales velocity. Earlier in the year, we began the process of going to market with this technology in order to offer a new and much needed demand channel directly to our suppliers. We are now in the process of entering into a significant license with one of our suppliers relating to the use of the Company's technology. While we will continue to run our legacy "Proprietary Trading" business, we have scaled these operations down based on the market opportunity. Our goal, through this new "Platform Partnership" business model, is to develop a new, low risk, high margin line of business that leverages the processes and proprietary technology that we have developed over the last several years.

On the supplier side, we continued to deepen our relationships with existing suppliers, and are now seeing the benefits of a more diversified supplier base. We purchased from approximately 7 suppliers in the quarter ended September 30, 2018, with our largest supplier's share of purchases representing 37% of our purchases, compared to 34% during the same period in 2017.

On the finance side, our primary lender has requested that we seek to refinance our debt facility with a different party. As further described in Notes 5 and 11 to the financial statements, we failed to meet our operating margin covenant in the quarter ended March 31, 2018. We have signed a forbearance agreement with our lender until December 3, 2018. We are currently in the process of finalizing a new loan agreement with a new senior secured lender and borrowing \$4,780,000 from a limited number of investors through the issue of four-year convertible notes convertible at \$0.30 per share.

In summary, despite industry-wide challenges towards the end of 2017 and into 2018, we have made substantial progress towards our technological vision. We intend to leverage our platform to create value for both our suppliers and our customers.

Comparison of the Three and Nine Months Ended September 30, 2018 to the Three and Nine Months Ended September 30, 2017

The following tables set forth, for the periods indicated, results of operations information from our unaudited interim condensed consolidated financial statements:

Three Months Ended	Change	Change
---------------------------	---------------	---------------

	September 30,				
	2018	2017	(Dollars)	(Percentage)	
Revenue	\$ 17,178,000	\$ 28,873,000	\$(11,695,000)	(41	)%
Cost of Revenue	16,141,000	27,315,000	(11,174,000)	(41	)%
Gross Profit	1,037,000	1,558,000	(521,000)	(33	)%
Operating Expenses:					
Sales and Marketing	136,000	533,000	(397,000)	(74	)%
General and Administrative	915,000	1,313,000	(398,000)	(30	)%
Total Operating Expenses	1,051,000	1,846,000	(795,000)	(43	)%
Operating Loss	(14,000)	(288,000)	274,000	(95	)%
Other Expense, Net	(469,000)	(337,000)	(132,000)	39	%
Net Loss	\$(483,000)	\$(625,000)	\$ 142,000	(23	)%

	Nine Months Ended				
	September 30,		Change	Change	
	2018	2017	(Dollars)	(Percentage)	
Revenue	\$50,610,000	\$81,142,000	\$(30,532,000)	(38	)%
Cost of Revenue	49,588,000	75,864,000	(26,276,000)	(35	)%
Gross (Loss) Profit	1,022,000	5,278,000	(4,256,000)	(81	)%
Operating Expenses:					
Sales and Marketing	613,000	1,618,000	(1,005,000)	(62	)%
General and Administrative	3,098,000	4,207,000	(1,109,000)	(26	)%
Total Operating Expenses	3,711,000	5,825,000	(2,114,000)	(36	)%
Operating (Loss) Income	(2,689,000)	(547,000)	(2,142,000)	392	%
Other Expense, Net	(1,151,000)	(1,973,000)	822,000	(42	)%
Net Loss	\$(3,840,000)	\$(2,520,000)	\$(1,320,000)	52	%

Revenue by Type

The following table breaks down our revenue by type:

	Three Months Ended September 30,			
	2018		2017	
Principal Device Revenue	\$17,101,000	100 %	\$28,730,000	100 %
Agent Commission Revenue	77,000	0 %	140,000	0 %
Other	—	0 %	3,000	0 %
	\$17,178,000	100 %	\$28,873,000	100 %

	Nine Months Ended September 30,			
	2018		2017	
Principal Device Revenue	\$50,320,000	99 %	\$80,653,000	99 %
Agent Commission Revenue	289,000	1 %	471,000	1 %
Other	1,000	0 %	18,000	0 %
	\$50,610,000	100 %	\$81,142,000	100 %

Principal Device Revenue decreased by \$11,629,000, or 40%, from \$28,730,000 for the three months ended September 30, 2017 to \$17,101,000 for the three months ended September 30, 2018. Principal Device Revenue decreased by \$30,333,000, or 38%, from \$80,653,000 for the nine months ended September 30, 2017 to \$50,320,000 for the nine months ended September 30, 2018. The decrease in our Principal Device revenue resulted from our decision to scale down our Proprietary Trading business and purchase more opportunistically.

Agent Commission Revenue decreased by \$63,000, or 45%, from \$140,000 for the three months ended September 30, 2017 to \$77,000 for the three months ended September 30, 2018. Agent Commission Revenue decreased by \$182,000, or 39%, from \$471,000 for the nine months ended September 30, 2017 to \$289,000 for the nine months ended September 30, 2018. The decrease in Agent Commission Revenue is due to the decline in our uSell.com business, which has been deprioritized in favor of our wholesale business.

Due to the fact that devices sourced through We Sell Cellular are bought and sold using the Principal Device Revenue model, we anticipate that the percentage of the Agent Commission Revenue will remain minimal in the immediate future. However, if we gain traction with our Platform Partnership Model, this will change.

Cost of Revenue

Cost of revenue decreased by \$11,174,000, or 41%, from \$27,315,000 for the three months ended September 30, 2017 to \$16,141,000 for the three months ended September 30, 2018. Cost of revenue decreased by \$26,276,000, or 35%, from \$75,864,000 for the nine months ended September 30, 2017 to \$49,588,000 for the nine months ended September 30, 2018. As noted above, our revenue for these periods decreased by 41% and 38%, respectively, which caused a corresponding decrease in our cost of revenue.

Our gross profit was 6.0% for the three months ended September 30, 2018, compared to 5.4% for the three months ended September 30, 2017 and 2.0% for the nine months ended September 30, 2018, compared to 6.5% for the nine months ended September 30, 2017. As mentioned, gross margins rebounded in the third quarter after the market had rebounded from the challenging conditions earlier in the year and we had disposed of our problem inventory.

Sales and Marketing Expenses

Sales and marketing expense decreased \$397,000, or 74%, from \$533,000 during the three months ended September 30, 2017 to \$136,000 during the three months ended September 30, 2018. Sales and marketing expense decreased \$1,005,000, or 62%, from \$1,618,000 during the nine months ended September 30, 2017 to \$613,000 during the nine months ended September 30, 2018. The decrease is primarily attributable to the lower fees paid as a result of the decreased eBay sales during the three and nine months ended September 30, 2018, compared to the three and nine months ended September 30, 2017. This decrease in eBay sales is attributable to the success of our online platform, which has proven to drive more profitable sales than those that we are able to generate through third party platforms such as eBay or Amazon.

General and Administrative Expenses

General and administrative expenses include professional fees for technology, legal and accounting services as well as consulting and internal personnel costs for our back office support functions. General and administrative expenses are impacted by non-cash compensation expense pertaining to stock grants and option grants for services. Non-cash compensation expense amounted to \$79,000 and \$132,000 for the three months ended September 30, 2018 and 2017, respectively, and \$261,000 and \$374,000 for the nine months ended September 30, 2018 and 2017, respectively.

Excluding non-cash compensation expense, general and administrative expenses for the three months ended September 30, 2018 decreased by \$345,000, or 29%, compared to the three months ended September 30, 2017. Excluding non-cash compensation expense, general and administrative expenses for the nine months ended September 30, 2018 decreased by \$996,000, or 26%, compared to the nine months ended September 30, 2017. The decrease is mainly attributable to a decrease in payroll and payroll-related expenses.

Other Expense

Other expense during the three and nine months ended September 30, 2018 and 2017 is comprised of interest expense attributable to the contractual interest expense and amortization of debt issue costs on the NPA, as well as the forbearance fee incurred during the three months ended September 30, 2018 in connection with the forbearance and amendment agreements entered into with the Lender.

Non-GAAP Financial Measures - Adjusted EBITDA

We make reference to “Adjusted EBITDA” which is a measure of financial performance not calculated in accordance with GAAP. Generally, a non-GAAP financial measure is a numerical measure of a company’s performance, financial position or cash flows that either excludes or includes amounts that are not normally included or excluded in the most directly comparable measure calculated and presented in accordance with GAAP.

This non-GAAP measure is not in accordance with, or an alternative to, measures prepared in accordance with GAAP and may be different from non-GAAP measures used by other companies. In addition, this non-GAAP measure is not based on any comprehensive set of accounting rules or principles. Non-GAAP measures have limitations in that they do not reflect all of the amounts associated with our results of operations as determined in accordance with GAAP. This measure should only be used to evaluate our results of operations in conjunction with the corresponding GAAP

measures.

Reconciliations of Adjusted EBITDA to the most directly comparable GAAP financial measure, net loss, to the extent available without unreasonable effort, are set forth below. The Company defines Adjusted EBITDA as loss from operations before the items noted in the table below.

Management believes Adjusted EBITDA provides a meaningful representation of our operating performance that provides useful information to investors regarding our financial condition and results of operations. Adjusted EBITDA is commonly used by financial analysts and others to measure operating performance. Furthermore, management believes that this non-GAAP financial measure may provide investors with additional meaningful comparisons between current results and results of prior periods as they are expected to be reflective of our core ongoing business. However, while we consider Adjusted EBITDA to be an important measure of operating performance, Adjusted EBITDA and other non-GAAP financial measures have limitations, and investors should not consider them in isolation or as a substitute for analysis of our results as reported under GAAP. Further, Adjusted EBITDA, as we define it, may not be comparable to EBITDA, or similarly titled measures, as defined by other companies.

The following table presents Adjusted EBITDA, a non-GAAP financial measure, and provides a reconciliation of Adjusted EBITDA to the directly comparable GAAP measure reported in the Company's consolidated financial statements:

	Three Months Ended		Nine Months Ended	
	September 30,		September 30,	
	2018	2017	2018	2017
Net loss	\$(483,000)	\$(625,000)	\$(3,840,000)	\$(2,520,000)
Stock-based compensation expense	79,000	132,000	261,000	374,000
Depreciation and amortization	348,000	359,000	1,051,000	1,082,000
Interest expense	469,000	337,000	1,151,000	1,973,000
Adjusted EBITDA	\$413,000	\$203,000	\$(1,377,000)	\$909,000

Liquidity and Capital Resources

Cash Flows from Operating Activities

Operating activities provided \$6,341,000 of cash during the nine months ended September 30, 2018. Our net loss during the nine months ended September 30, 2018 of \$3,840,000 was offset by \$1,051,000 of depreciation and amortization, \$261,000 of stock-based compensation, \$419,000 of interest and forbearance fees added to the principal balance of the NPA and \$120,000 of amortization of debt issue costs related to our NPA. Changes in operating assets and liabilities provided \$8,330,000 of cash during the nine months ended September 30, 2018.

Operating activities used \$1,532,000 of cash during the nine months ended September 30, 2017. Our net loss during the nine months ended September 30, 2017 of \$2,520,000 was offset by \$1,082,000 of depreciation and amortization, \$374,000 of stock-based compensation, and \$1,064,000 of amortization of debt issue costs related to our NPA. Changes in operating assets and liabilities provided \$1,531,000 of cash during the nine months ended September 30, 2017.

Cash Flows from Investing Activities

During the nine months ended September 30, 2018, we capitalized \$378,000 of website development costs and purchased \$5,000 of property and equipment.

During the nine months ended September 30, 2017, we capitalized \$507,000 of website development costs and purchased \$19,000 of property and equipment.

Cash Flows from Financing Activities

During the nine months ended September 30, 2018, we repaid \$3,300,000 of principal under our NPA and made payments of \$11,000 under our capital lease obligations.

During the nine months ended September 30, 2017, we received \$8,572,000 in proceeds under our NPA and paid \$310,000 in costs associated with the NPA. In addition, we repaid \$8,080,000 of principal under the previous facility and made payments of \$9,000 under our capital lease obligations.

At September 30, 2018, we had cash and cash equivalents of \$1,105,000, a working capital deficit of \$2,169,000 and an accumulated deficit of \$74,529,000. In addition, we generated a net loss of \$3,840,000 for the nine months ended September 30, 2018. We do not yet have a sustained history of financial stability and may continue to generate operating losses for the foreseeable future. Since the acquisition of We Sell Cellular, we have relied on institutional debt to provide our working capital and complete the We Sell Cellular acquisition. Prior to the acquisition, our principal source of liquidity had been the issuances of convertible debt and equity securities (including to related parties), including preferred stock, common stock and various debt financing transactions. These conditions raise substantial doubt about the Company's ability to continue as a going concern through November 2019. Management plans to address this uncertainty through further implementation of its business plan or by continuing to raise funds through debt and/or equity. There can be no assurances that the plans and actions proposed by management will be successful or that unforeseen circumstances will not require additional funding sources in the future or effectuate plans to conserve liquidity. Future efforts to raise additional funds may not be successful or they may not be available on acceptable terms, if at all.

Our cash flow has been significantly impacted by the We Sell Cellular acquisition. On January 13, 2017, we entered into the NPA with a lender pursuant to which we issued the lender a secured term note in the principal amount of \$8,660,000 at an original issue discount of 1%, for gross proceeds of \$8,572,400. The NPA requires repayment of principal in January 2020 and bears interest at an annual rate of 16.00%, which interest is due and payable monthly in arrears. In addition, the lender from whom the Company borrowed the funds under the NPA, established an SPE with the Company. Under the SPE, the lender provided \$5 million of equity capital to purchase smartphones and similar inventory. The Company entered into a Services Agreement with the SPE and was to provide all necessary services including inventory management. The Company was to receive a percentage of the SPE's profits, if any. We received no distributions from the SPE, which has been dissolved.

As a result of the downturn in our business relating in part to the disruptions in key global markets, we did not meet one of the financial covenants under the NPA and therefore we were in default under the agreement for the quarter ended March 31, 2018. The Company entered into a series of forbearance and amendment agreements with the Lender, pursuant to which the Lender granted the Company a forbearance of existing remedies of its default under one if its financial covenants (the "Default") until September 30, 2018. On October 1, 2018, we entered into a Forbearance and Fifth Amendment Agreement (the "Fifth Amendment") extending the Lender's forbearance until December 3, 2018. In addition, we amended the terms of our financial covenant related to our operating margin requirements and debt coverage ratio and repaid \$3,304,068 of the NPA during the quarter ended September 30, 2018, inclusive of \$4,068 of accrued interest. As consideration for entering into the amendments, we agreed to pay the Lender a sum of \$187,600, which sum was added to the principal balance of the NPA. In addition, during the three months ended September 30, 2018, we added an aggregate of \$231,600 of interest due to the Lender to the principal balance of the NPA. As a result of these transactions, the principal balance of the Note was increased to \$5,779,219.

On May 4, 2018, we entered into a Second Amended and Restated Secured Term Note, pursuant to which the NPA's interest rate was increased from 15.0% to 16.0% commencing June 1, 2018. The maturity date for the NPA remains at January 13, 2020. We cannot provide assurance that we will be able to meet our financial covenants for the quarter ended September 30, 2018 and quarters thereafter and cannot provide assurance that the Lender will waive any potential default. If we are unable to obtain a waiver from the Lender, the Lender will be able to foreclose on all of our assets and we will have to cease operations.

In addition, the Company and the Manager dissolved the SPE. All cash proceeds and remaining cash proceeds from inventory in the SPE went to the Manager, except for:

- i. \$20,000 of proceeds to went to the Company for reimbursement of expenses under the Services Agreement, with the Company waiving any other current or future fees under the Services Agreement.
- ii. Approximately \$13,000 for third party legal or accounting costs and filing fees for dissolving SPE.

Under the Fifth Amendment, unless we pay the Lender in full by November 19, 2018, we will incur material additional charges as described in Note 11 - "Subsequent Events." We are finalizing a series of agreements including entering into a new credit facility which we expect to close in the days following the filing of this report. Assuming we close all of these agreements, we expect that we will have sufficient liquidity to meet our working capital needs for at least the next 12 months. If we fail to close each of these agreements or reach additional necessary agreements to provide us with liquidity, we may cease operations.

Recent Accounting Pronouncements

See Note 2 to our unaudited interim condensed consolidated financial statements regarding recent accounting pronouncements.

Cautionary Note Regarding Forward-Looking Statements

This report includes forward-looking statements including statements regarding liquidity, implementation of our business plan and platform, our ability to raise future capital, stabilization of the market and our future operations.

The words “believe,” “may,” “estimate,” “continue,” “anticipate,” “intend,” “should,” “plan,” “could,” “target,” “potential,” “is,” “expect” and similar expressions, as they relate to us, are intended to identify forward-looking statements. We have based these forward-looking statements largely on our current expectations and projections about future events and financial trends that we believe may affect our financial condition, results of operations, business strategy and financial needs.

The results anticipated by any or all of these forward-looking statements might not occur. Important factors, uncertainties and risks that may cause actual results to differ materially from these forward-looking statements include our ability to refinance our debt, the continued viability of our new technology platform and suppliers willingness to use it, and the Risk Factors contained in our Annual Report for the year ended December 31, 2017. Further, we may be subject to internal matters affecting our lender. We undertake no obligation to publicly update or revise any forward-looking statements, whether as the result of new information, future events or otherwise. For more information regarding some of the ongoing risks and uncertainties of our business, see the Risk Factors and our other filings with the SEC.

Item 3. Quantitative and Qualitative Disclosures About Market Risk.

Not applicable to smaller reporting companies.

Item 4. Controls and Procedures.

Evaluation of Disclosure Controls and Procedures

Our management carried out an evaluation, with the participation of our Principal Executive Officer and Principal Financial Officer, of the effectiveness of our disclosure controls and procedures as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934 (the “Exchange Act”).

Based on their evaluation, our Principal Executive Officer and Principal Financial Officer concluded that our disclosure controls and procedures were effective as of the end of the period covered by this report to ensure that information required to be disclosed by us in the reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC’s rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by us in our reports that we file or submit under the Exchange Act is accumulated and communicated to our management, including our Principal Executive Officer and Principal Financial Officer, as appropriate to allow timely decisions regarding required disclosure.

Changes in Internal Controls Over Financial Reporting

There have not been any significant changes in our internal control over financial reporting during the period covered by this report that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II - OTHER INFORMATION

Item 1. Legal Proceedings.

From time to time, we are a party to, or otherwise involved in, legal proceedings arising in the normal and ordinary course of business. During the period covered by this report, there were no new legal proceedings nor any material developments to any legal proceedings previously disclosed.

Item 1A. Risk Factors.

Not applicable to smaller reporting companies.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds.

In addition to those unregistered securities previously disclosed in filings with the SEC, we have issued shares of common stock which are not registered under the Securities Act of 1933 (the “Act”), as described below.

Name or Class of Investor	Date Issued	No. of Securities	Consideration
Consultants (1)	August – October 2018	6,000 shares of common stock	Consulting services

(1) Issued in reliance upon the exemption from registration contained in Section 4(a)(2) of the Act and Rule 506(b) promulgated thereunder.

Item 3. Defaults Upon Senior Securities.

None.

Item 4. Mine Safety Disclosures.

Not Applicable.

Item 5. Other Information.

None.

Item 6. Exhibits.

See the exhibits listed in the accompanying “Index to Exhibits.”

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

uSell.com, Inc.

November 19, 2018 /s/ Nikhil Raman

Nikhil Raman

Chief Executive Officer and Chief Financial Officer

(Principal Executive Officer and Principal Financial Officer)

INDEX TO EXHIBITS

Exhibit		Incorporated by		Filed or	
No.	Exhibit Description	Reference	Form Date	Number	Furnished Herewith
<u>3.1</u>	<u>Amended and Restated Certificate of Incorporation, as amended</u>	10-K	3/31/15	3.1	
<u>3.2</u>	<u>Second Amended and Restated Bylaws</u>	10-K	3/30/17	3.2	
<u>10.1</u>	<u>Form of Forbearance and Fifth Amendment Agreement date October 1, 2018***</u>	8-K	10/12/18	10.1	
<u>10.2</u>	<u>Form of Fourth Amended and Restated Secured Note dated October 1, 2018***</u>	8-K	10/12/18	10.2	
<u>10.3</u>	<u>Form of Forbearance and Fourth Amendment Agreement dated July 2, 2018***</u>	8-K	7/11/18	10.1	
<u>10.4</u>	<u>Form of Third Amended and Restated Secured Term Note dated July 2, 2018***</u>	8-K	7/11/18	10.2	
<u>10.5</u>	<u>Letter Agreement dissolving LLC</u>	10-Q	5/21/18	10.3	
<u>10.6</u>	<u>Form of Forbearance and Third Amendment Agreement dated May 4, 2018 ***</u>	8-K	5/10/18	10.1	
<u>10.7</u>	<u>Form of Second Amended and Restated Secured Term Note ***</u>	8-K	5/10/18	10.2	
<u>31.1</u>	<u>Certification of Principal Executive Officer and Principal Financial Officer (302)</u>				Filed
<u>32.1</u>	<u>Certification of Principal Executive and Principal Financial Officer (906)</u>				Furnished**
101.INS	XBRL Instance Document				Filed
101.SCH	XBRL Taxonomy Extension Schema Document				Filed
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document				Filed
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document				Filed
101.LAB	XBRL Taxonomy Extension Label Linkbase Document				Filed
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document				Filed

* Management contract or compensatory plan or arrangement.

** This exhibit is being furnished rather than filed and shall not be deemed incorporated by reference into any filing, in accordance with Item 601 of Regulation S-K.

*** Certain schedules, appendices and exhibits to this agreement have been omitted in accordance with Item 601(b)(2) of Regulation S-K. A copy of any omitted schedule and/or exhibit will be furnished supplementally to the Securities and Exchange Commission staff upon request.

Copies of this report (including the financial statements) and any of the exhibits referred to above will be furnished at no cost to our shareholders who make a written request to our Corporate Secretary at 18 West 18th Street, Suite 11-03, New York, New York 10011.