

BITSTREAM INC
Form SC 13D/A
May 03, 2010

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

SCHEDULE 13D
(Rule 13d-101)

INFORMATION TO BE INCLUDED IN STATEMENTS FILED PURSUANT
TO § 240.13d-1(a) AND AMENDMENTS THERETO FILED PURSUANT TO
§ 240.13d-2(a)

(Amendment No. 2)1

Bitstream Inc.

(Name of Issuer)

Class A Common Stock, par value \$0.01 per share
(Title of Class of Securities)

091736108
(CUSIP Number)

STEVEN WOLOSKY, ESQ.
OLSHAN GRUNDMAN FROME ROSENZWEIG & WOLOSKY LLP
Park Avenue Tower
65 East 55th Street
New York, New York 10022
(212) 451-2300

(Name, Address and Telephone Number of Person

Authorized to Receive Notices and Communications)

April 27, 2010

(Date of Event Which Requires Filing of This Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this schedule because of §§ 240.13d-1(e), 240.13d-1(f) or 240.13d-1(g), check the following box " .

Note: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See § 240.13d-7 for other parties to whom copies are to be sent.

1 The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page.

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The information required on the remainder of this cover page shall not be deemed to be “filed” for the purpose of Section 18 of the Securities Exchange Act of 1934 (“Act”) or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

CUSIP NO. 091736108

1 NAME OF REPORTING PERSON

Raging Capital Fund, LP

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (a) (b)

3 SEC USE ONLY

4 SOURCE OF FUNDS

WC

5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) OR 2(e)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

DELAWARE

| | | |
|---|----|--------------------------|
| NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH | 7 | SOLE VOTING POWER |
| | | - 0 - |
| | 8 | SHARED VOTING POWER |
| | | 456,302 |
| | 9 | SOLE DISPOSITIVE POWER |
| | | - 0 - |
| | 10 | SHARED DISPOSITIVE POWER |
| | | 456,302 |

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

456,302

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

4.6%

14 TYPE OF REPORTING PERSON

PN

CUSIP NO. 091736108

1 NAME OF REPORTING PERSON

Raging Capital Fund (QP), LP

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (a) (b)

3 SEC USE ONLY

4 SOURCE OF FUNDS

WC

5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) OR 2(e)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

DELAWARE

| | | |
|---|----|--------------------------|
| NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH | 7 | SOLE VOTING POWER |
| | | - 0 - |
| | 8 | SHARED VOTING POWER |
| | | 382,110 |
| | 9 | SOLE DISPOSITIVE POWER |
| | | - 0 - |
| | 10 | SHARED DISPOSITIVE POWER |
| | | 382,110 |

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

382,110

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

3.8%

14 TYPE OF REPORTING PERSON

PN

CUSIP NO. 091736108

1 NAME OF REPORTING PERSON

Raging Capital Management, LLC

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (a) (b)

3 SEC USE ONLY

4 SOURCE OF FUNDS

AF

5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) OR 2(e)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

DELAWARE

| | | |
|---|----|--------------------------|
| NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH | 7 | SOLE VOTING POWER |
| | | - 0 - |
| | 8 | SHARED VOTING POWER |
| | | 838,412 |
| | 9 | SOLE DISPOSITIVE POWER |
| | | - 0 - |
| | 10 | SHARED DISPOSITIVE POWER |
| | | 838,412 |

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

838,412

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

8.4%

14 TYPE OF REPORTING PERSON

OO

CUSIP NO. 091736108

1 NAME OF REPORTING PERSON

William C. Martin

2 CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (a) (b)

3 SEC USE ONLY

4 SOURCE OF FUNDS

AF

5 CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEM 2(d) OR 2(e)

6 CITIZENSHIP OR PLACE OF ORGANIZATION

USA

| | | |
|---|----|--------------------------|
| NUMBER OF SHARES BENEFICIALLY OWNED BY EACH REPORTING PERSON WITH | 7 | SOLE VOTING POWER |
| | | - 0 - |
| | 8 | SHARED VOTING POWER |
| | | 838,412 |
| | 9 | SOLE DISPOSITIVE POWER |
| | | - 0 - |
| | 10 | SHARED DISPOSITIVE POWER |
| | | 838,412 |

11 AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON

838,412

12 CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (11) EXCLUDES CERTAIN SHARES

13 PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (11)

8.4%

14 TYPE OF REPORTING PERSON

IN

CUSIP NO. 091736108

The following constitutes Amendment No. 2 to the Schedule 13D filed by the undersigned (“Amendment No. 2”). This Amendment No. 2 amends the Schedule 13D as specifically set forth.

Item 2. Identity and Background.

Item 2 is hereby amended and restated to read as follows:

In connection with the Settlement Agreement described and defined in Item 4, Kenneth H. Traub and James A. Waskovich, director nominees of Raging Capital Fund, are no longer members of the Section 13(d) group and ceased to be Reporting Persons contemporaneously with the entry into the Settlement Agreement. In addition, Raul K. Martynek, a director nominee of Raging Capital Fund, was appointed to the Board of Directors of the Issuer (the “Board”). Accordingly, Mr. Martynek is no longer a member of the Section 13(d) group and ceased to be a Reporting Person contemporaneously with the entry into the Settlement Agreement. The remaining Reporting Persons will continue filing as a group statements on Schedule 13D with respect to their beneficial ownership of securities of the Issuer, to the extent required by applicable law.

Item 4. Purpose of Transaction.

Item 4 is hereby amended to add the following:

On April 27, 2010, the Raging Capital Group (as defined in the Settlement Agreement) and the Issuer entered into a Settlement Agreement. Pursuant to the terms of the Settlement Agreement the Issuer agreed to: (i) increase the size of the Board from six (6) to eight (8) directors and (ii) nominate Raul Martynek, a Raging Capital Fund nominee, and Melvin L. Keating to be elected as members of the Board at the Issuer’s 2010 annual meeting of stockholders (the “2010 Annual Meeting”).

The Issuer further agreed that if Mr. Martynek leaves the Board before the Issuer’s 2012 annual meeting of stockholders (the “2012 Annual Meeting”) by reason of his resignation, death or disability, the Raging Capital Group will be entitled to recommend to the Nominating and Corporate Governance Committee of the Board a nominee for director who will qualify as “independent” pursuant to NASDAQ listing standards and the Nominating and Corporate Governance Committee will consider such Raging Capital Group nominee in good faith and in accordance with their fiduciary duties.

As part of the Settlement Agreement, the Issuer also agreed to notify the Raging Capital Group whether it has resolved to recommend Mr. Martynek for re-election to the Board at each of the 2011 annual meeting of stockholders (the “2011 Annual Meeting”) and the 2012 Annual Meeting within fifteen (15) days following the first date upon which a stockholder may nominate, in accordance with the applicable procedures set forth in the Issuer’s Bylaws, a person for election as a member of the Board at such meeting.

The Raging Capital Group agreed to (i) withdraw its nomination letter, dated February 26, 2010, (ii) cease any proxy solicitation activities with respect to the 2010 Annual Meeting, (iii) withdraw its demand to inspect certain of the Issuer’s books and records pursuant to Section 220 of the Delaware General Corporation Law, (iv) vote all Shares beneficially owned by it in favor of the election to the Issuer’s slate of nominees at the 2010 Annual Meeting and (v) not solicit any proxies or consents for the voting of securities of the Issuer nor advise or influence the voting of securities of the Issuer until the earlier of (a) the date on which the Issuer notifies the Raging Capital Group that it has not resolved to nominate Mr. Martynek for election to the Board at the 2011 Annual Meeting or the 2012 Annual Meeting; or (b) the first day after the 2012 Annual Meeting.

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The foregoing description of the Settlement Agreement is qualified in its entirety by reference to the Settlement Agreement, which is attached as exhibit 99.1 hereto and is incorporated herein by reference.

Item 5. Interest in Securities of the Issuer.

Item 5(a) is hereby amended and restated to read as follows:

(a) The aggregate percentage of Shares reported owned by each person named herein is based upon 10,010,807 Shares outstanding as of April 16, 2010, which is the total number of Shares outstanding as reported in the Issuer's Definitive Proxy Statement filed with the Securities and Exchange Commission on April 28, 2010.

As of the close of business on April 30, 2010, Raging Capital Fund directly owned 456,302 Shares, constituting approximately 4.6% of the Shares outstanding. By virtue of their relationships with Raging Capital Fund discussed in further detail in Item 2, each of Raging Capital and Mr. Martin may be deemed to beneficially own the Shares owned by Raging Capital Fund.

As of the close of business on April 30, 2010, Raging Capital Fund QP directly owned 382,110 Shares, constituting approximately 3.8% of the Shares outstanding. By virtue of their relationships with Raging Capital Fund QP discussed in further detail in Item 2, each of Raging Capital and Mr. Martin may be deemed to beneficially own the Shares owned by Raging Capital Fund QP.

Each of the Reporting Persons, as a member of a "group" with the other Reporting Persons for the purposes of Section 13(d)(3) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), may be deemed to beneficially own the Shares owned by the other Reporting Persons. The filing of this Schedule 13D shall not be deemed an admission that the Reporting Persons are, for purposes of Section 13(d) of the Exchange Act, the beneficial owners of any Shares he or it does not directly own. Each of the Reporting Persons specifically disclaims beneficial ownership of the Shares reported herein that he or it does not directly own.

Item 6. Contracts, Arrangements, Understandings or Relationships With Respect to Securities of the Issuer.

Item 6 is hereby amended to add the following:

On May 3, 2010, the Reporting Persons entered into a Joint Filing Agreement in which the Reporting Persons agreed to the joint filing on behalf of each of them of statements on Schedule 13D, with respect to securities of the Issuer, to the extent required by applicable law. A copy of this agreement is attached hereto as Exhibit 99.2 and is incorporated herein by reference.

Other than as described herein, there are no contracts, arrangements, understandings or relationships among the Reporting Persons, or between the Reporting Persons and any other person, with respect to the securities of the Issuer.

CUSIP NO. 091736108

Item 7. Material to be Filed as Exhibits.

Item 7 is hereby amended to add the following exhibits:

99.1 Settlement Agreement by and among Bitstream Inc., Raging Capital Fund, LP, Raging Capital Fund (QP), LP, Raging Capital Management, LLC and William C. Martin, dated April 27, 2010.

99.2 Joint Filing Agreement by and among Raging Capital Fund, LP, Raging Capital Fund (QP), LP, Raging Capital Management, LLC and William C. Martin, dated May 3, 2010.

8

CUSIP NO. 091736108

SIGNATURES

After reasonable inquiry and to the best of his knowledge and belief, each of the undersigned certifies that the information set forth in this statement is true, complete and correct.

Dated: May 3, 2010

Raging Capital Fund, LP

By: Raging Capital Management, LLC
General Partner

By: /s/ William C. Martin
Name: William C. Martin
Title: Managing Member

Raging Capital Fund (QP), LP

By: Raging Capital Management, LLC
General Partner

By: /s/ William C. Martin
Name: William C. Martin
Title: Managing Member

Raging Capital Management, LLC

By: /s/ William C. Martin
Name: William C. Martin
Title: Managing Member

/s/ William C. Martin
William C. Martin

