

UTSTARCOM INC  
Form 8-K  
September 14, 2005

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 8-K**

**CURRENT REPORT**

**Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

**Date of Report (Date of earliest event reported): September 8, 2005**

**UTSTARCOM, INC.**

(Exact name of registrant as specified in its charter)

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

**000-29661**  
(Commission File Number)

**52-1782500**  
(I.R.S. Employer Identification  
No.)

**1275 Harbor Bay Parkway**

**Alameda, California 94502**

(Address of principal executive offices) (Zip code)

**(510) 864-8800**

(Registrant's telephone number, including area code)

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N/A

(Former name or former address, if changed since last report.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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**Item 3.02 Unregistered Sales of Equity Securities**

On August 31, 2005 and September 8, 2005, UTStarcom, Inc. (the Company) entered into privately negotiated agreements with holders of its 0.875% Convertible Subordinated Notes due 2008 (the Notes) to exchange, and on September 6, 2005 and September 13, 2005, respectively, exchanged with such holders, \$31.9 million aggregate principal amount of the Notes for an aggregate of 1,244,100 shares of the Company's common stock, par value \$0.00125 per share. The agreement entered into on September 8, 2005 triggered the requirement that the Company provide this disclosure under Item 3.02 of Form 8-K. As an incentive to exchange the Notes for shares of common stock, the holders received from the Company an aggregate of \$15,570,490 in cash. These exchanges are considered early extinguishment of debt in which the aggregate fair value of the common stock and cash is less than the carrying value of the Notes. Accordingly, the Company expects to record an aggregate gain on extinguishment for such exchanges of approximately \$6.2 million.

The shares of common stock issued in these transactions are exempt from the registration requirements of the Securities Act of 1933, as amended (the 1933 Act), pursuant to an exemption under Section 3(a)(9) of the 1933 Act. The Notes had been registered and resold pursuant to a registration statement filed by the Company pursuant to the 1933 Act, and no commission or other remuneration was paid or given directly or indirectly for soliciting such exchanges.

The Company will continue to review other opportunities that may arise from time to time to reduce indebtedness and interest expense, taking into account its current liquidity and prospects for future access to the capital markets. In that connection, the Company may acquire other outstanding securities in exchange for common stock or a combination of cash and common stock through other privately negotiated transactions. The Company will evaluate any such transactions in light of then existing market conditions and other relevant factors. The amounts involved in any such transaction, individually or in the aggregate, may be material.

This Current Report on Form 8-K contains forward-looking statements, including the foregoing statements regarding the expected gain on extinguishment of the Notes and possible future acquisitions by the Company of its outstanding securities. Investors are cautioned that these forward-looking statements are inherently uncertain. These statements are subject to risks and uncertainties that may cause actual results to differ materially. These risks include rapidly changing technology, the changing nature of global telecommunications markets, both in China and globally, the termination of significant contracts, the evolution of the Company's internal controls over financial reporting and the existence or discovery of future additional material weaknesses or significant deficiencies, the direction and results of future research and development efforts, evolving product and applications standards, reductions or delays in system deployments, product transitions, the development of a market for IPTV products and the Company's ability to compete in such market, potential non-realization of backlog, changes in demand for and acceptance of the Company's products, the Company's ability to achieve the anticipated level of cost savings from its restructuring efforts, the market price for the Company's securities, general adverse economic conditions and trends and uncertainties such as changes in government regulation and licensing requirements, both in China and globally. For a detailed discussion of these and other risks and uncertainties, investors are directed to the Company's latest Annual Report on Form 10-K, Quarterly Reports on Form 10-Q and Current Reports on Form 8-K, as filed with the Securities and Exchange Commission.

**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 hereunto duly authorized.

**UTSTARCOM, INC.**

Date: September 14, 2005

By: /s/ Michael J. Sophie  
Name: Michael J. Sophie  
Title: Executive Vice President and Chief  
Operating Officer