

ZOOM TECHNOLOGIES INC
Form 10-Q
November 19, 2013

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

FORM 10-Q

(Mark One)

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

FOR THE QUARTER ENDED SEPTEMBER 30, 2013

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 000-18672

ZOOM TECHNOLOGIES, INC.

(Exact name of Registrant as Specified in its Charter)

Delaware

(State or Other Jurisdiction of Incorporation or Organization)

51-0448969

(I.R.S. Employer Identification Number)

Headquarters:
Sanlitun SOHO, Building A, 11th Floor
No.8 Workers Stadium North Road
Chaoyang District, Beijing, China 100027

U.S. office:
c/o Ellenoff Grossman & Schole LLP

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150 East 42nd Street, 11th Floor
New York, NY 10017

(Address of principal executive offices including zip code)

(845) 507-8200

(Registrant's telephone number, including area code)

(Former name, former address and former fiscal year, if changed since last report) 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 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 and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). YES NO

Explanatory Note: Pursuant to Rule 405(a)(2) of Regulation S-T, the registrant is relying upon the applicable 30-day grace period for the initial filing of its first Interactive Data File required to contain detail-tagged footnotes or schedules. The registrant intends to file the required detail-tagged footnotes or schedules by the filing of an amendment to this Quarterly Report on Form 10-Q within the 30-day period.

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

Large accelerated filer Accelerated filer Non-accelerated filer Smaller reporting company
(Do not check if a smaller reporting company)

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). YES NO

Applicable only to corporate issuers:

State the number of shares outstanding of each of the issuer's classes of common equity, as of the latest practicable date: The number of shares of common stock, par value \$0.01, outstanding as of November 18, 2013 is 3,008,685.

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Zoom Technologies, Inc.
Affiliates and Subsidiaries

FORM 10-Q

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PART I — FINANCIAL INFORMATION

Item 1. Condensed Consolidated Financial Statements

ZOOM TECHNOLOGIES, INC., AFFILIATES & SUBSIDIARIES
CONDENSED CONSOLIDATED BALANCE SHEETS

	SEPTEMBER 30, 2013 (Unaudited)	DECEMBER 31, 2012
ASSETS		
Current assets		
Cash and equivalents	\$ 1,818,816	\$ 8,351
Restricted cash	19,555,440	19,044,294
Other receivables and prepaid expenses	1,217,441	3,989,362
Due from related parties	13,619,198	20,528,155
Current assets of discontinued operations, held for sale	141,821,444	179,884,224
Total current assets	178,032,339	223,454,386
Intangible assets	349,600	349,600
Long-term investments	11,754,210	11,912,956
TOTAL ASSETS	\$ 190,136,149	\$ 235,716,942
LIABILITIES AND EQUITY		
Current liabilities		
Notes payable	350,937	-
Accounts payable	36,948	38,695
Accrued expenses and other payables	535,530	1,237,505
Purchase deposit from buyer	8,240,490	8,740,490
Taxes payable	22,951	22,334
Due to related parties	2,966,000	5,362,597
Warrant liability	-	7,340
Current liabilities of discontinued operations	141,651,482	167,933,806
Total current liabilities	153,804,338	183,342,767
Long-term notes payables	-	317,500
TOTAL LIABILITIES	153,804,338	183,660,267
COMMITMENTS AND CONTINGENCIES		
EQUITY		
STOCKHOLDERS' EQUITY		
Preferred stock: authorized 1,000,000 shares, par value \$0.01 none issued and outstanding	-	-
Common stock: authorized 60,000,000 shares, par value \$0.01; 3,008,517 shares issued and outstanding at September 30, 2013; 2,932,085 shares issued and 2,931,917 shares outstanding at December 31, 2012	30,085	29,319
Treasury shares: 168 shares at cost	-	(732)
Additional paid-in capital	52,918,411	51,365,692
Statutory surplus reserve	737,623	702,539
Accumulated other comprehensive income	2,943,466	4,058,655
Accumulated deficit	(20,297,774)	(4,098,798)
TOTAL STOCKHOLDERS' EQUITY	36,331,811	52,056,675
Non-controlling interest		
TOTAL EQUITY	36,331,811	52,056,675
TOTAL LIABILITIES AND EQUITY	\$ 190,136,149	\$ 235,716,942

The accompanying notes are an integral part of these condensed consolidated financial statements.

ZOOM TECHNOLOGIES, INC., AFFILIATES & SUBSIDIARIES
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS

	THREE MONTHS ENDED		NINE MONTHS ENDED	
	SEPTEMBER 30,		SEPTEMBER 30,	
	2013	2012	2013	2012
	(Unaudited)	(Unaudited)	(Unaudited)	(Unaudited)
Net revenues	\$ -	\$ -	\$ -	\$ -
Cost of sales	-	-	-	-
Gross profit	-	-	-	-
Operating expenses:				
Selling, general, and administrative expenses	(34,692)	135,646	740,947	869,938
Non-cash equity-based compensation	132,259	758,592	777,924	2,030,151
Total operating expenses	97,567	894,238	1,518,871	2,900,089
Loss from operations	(97,567)	(894,238)	(1,518,871)	(2,900,089)
Other income and (expenses)				
Interest income	314	1	314	12
Interest expense	(8,006)	(901)	(153,199)	(27,151)
Change in fair value of warrants	4	523,078	7,340	523,078
Investment gain (loss)	174,895	(423,630)	(158,746)	(423,630)
Other income (expense), net	(309,838)	1,105	778	(293)
Other income (expense), net	(142,631)	99,653	(303,513)	72,016
Loss before income taxes and noncontrolling interest	(240,198)	(794,585)	(1,822,384)	(2,828,073)
Income taxes for continuing operations	-	11,289	109,517	11,289
Loss before noncontrolling interest from continuing operations	(240,198)	(805,874)	(1,931,901)	(2,839,362)
less: Income attributable to noncontrolling interest of continuing operations	-	-	-	-
Loss attributable to Zoom Technologies, Inc. from continuing operations	(240,198)	(805,874)	(1,931,901)	(2,839,362)
Discontinued Operations:				
(Loss) income from discontinued operations, net of tax	(1,279,263)	1,748,821	(1,825,489)	5,064,578
less: Loss (income) attributable to noncontrolling interest from discontinued operations	(136,727)	190,633	(249,471)	177,708
	(1,142,536)	1,558,188	(1,576,018)	4,886,870
Loss on disposal, net tax	(10,589,349)	-	(12,655,973)	-
(Loss) income attributable to Zoom Technologies, Inc. from discontinued operations	(11,731,885)	1,558,188	(14,231,991)	4,886,870
Net (loss) income attributable to Zoom Technologies, Inc.	\$ (11,972,083)	\$ 752,314	\$ (16,163,892)	\$ 2,047,508
Basic and diluted loss per common share from continuing operations:				
Basic	\$ (0.08)	\$ (0.28)	\$ (0.65)	\$ (1.07)
Diluted	\$ (0.08)	\$ (0.28)	\$ (0.65)	\$ (1.07)
Basic and diluted (loss) income per common share from discontinued operations:				
Basic	\$ (3.91)	\$ 0.54	\$ (4.76)	\$ 1.85
Diluted	\$ (3.91)	\$ 0.54	\$ (4.76)	\$ 1.85
Basic and diluted (loss) income per common share				
Basic	\$ (3.99)	\$ 0.26	\$ (5.40)	\$ 0.77
Diluted	\$ (3.99)	\$ 0.26	\$ (5.40)	\$ 0.77
Weighted average common shares outstanding:				
Basic	2,999,387	2,911,470	2,990,836	2,643,145
Diluted	2,999,387	2,911,470	2,990,836	2,646,830

The accompanying notes are an integral part of these condensed consolidated financial statements.

ZOOM TECHNOLOGIES, INC., AFFILIATES & SUBSIDIARIES
 CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)

	THREE MONTHS ENDED SEPTEMBER 30,			NINE MONTHS ENDED SEPTEMBER 30,	2012 (Unaudited)
	2013 (Unaudited)	2012 (Unaudited)	2013 (Unaudited)		
Net (loss) income attributable to Zoom Technologies, Inc.	\$ (11,972,083)	\$ 752,314	\$ (16,163,892)		\$ 2,047,508
Net income (loss) attributable to noncontrolling interest	\$ (136,727)	\$ 190,633	\$ (249,471)		\$ 177,708
Other comprehensive income:					
Foreign currency translation gain - Zoom Technologies, Inc.	\$ (1,893,626)	\$ (333,330)	\$ (1,115,191)		\$ 56,387
Foreign currency translation gain - noncontrolling interest	\$ (762,769)	\$ 588	\$ (568,160)		\$ 24,481

change the maturity of any payment of principal of, or any premium on, or any installment of interest on any debt security, or reduce the principal amount thereof or the interest or any premium thereon, or change the method of computing the amount of principal thereof or interest thereon on any date or change any place of payment where, or the coin or currency in which, any debt security or any premium or interest thereon is payable, or impair the right to institute suit for the enforcement of any such payment on or after the maturity thereof, or, in the case of redemption or repayment, on or after the redemption date or the repayment date, as the case may be;

reduce the percentage in principal amount of the outstanding debt securities of any series, the consent of whose holders is required for any such modification, or the consent of whose holders is required for

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any waiver of compliance with certain provisions of the applicable indenture or certain defaults thereunder and their consequences provided for in the applicable indenture; or

modify any of the provisions of certain sections of the applicable indenture, including the provisions summarized in this paragraph, except to increase any such percentage or to provide that certain other provisions of the applicable indenture cannot be modified or waived without the consent of the holder of each outstanding debt security affected thereby. (Section 902)

Defeasance of the Indentures and Debt Securities

If the terms of any series of debt securities so provide, we will be deemed to have paid and discharged the entire indebtedness on all the outstanding debt securities of such series by, in addition to meeting certain other conditions, depositing with the trustee either:

(1) as trust funds in trust an amount sufficient to pay and discharge the entire indebtedness on all debt securities of such series for principal, premium, if any, and interest; or

(2) as obligations in trust such amount of direct obligations of, or obligations the principal of and interest on which are fully guaranteed by, the government which issued the currency in which the debt securities are denominated as will, together with the income to accrue thereon without consideration of any reinvestment thereof, be sufficient to pay and discharge the entire indebtedness on all such debt securities for principal, premium, if any, and interest, and satisfying certain other conditions precedent specified in the applicable indenture.

(Section 403) In the event of any such defeasance, holders of such debt securities would be able to look only to such trust fund for payment of principal of, any premium on, and any interest on their debt securities.

A defeasance is likely to be treated as a taxable exchange by holders of the relevant debt securities for an issue consisting of either obligations of the trust or a direct interest in the cash and securities held in the trust, with the result that such holders would be required for tax purposes to recognize gain or loss as if such obligations or the cash or securities deposited, as the case may be, had actually been received by them in exchange for their debt securities. In addition, if the holders are treated as the owners of their proportionate share of the cash or securities held in trust, such holders would then be required to include in their income for tax purposes any income, gain or loss attributable thereto even though no cash was actually received. Thus, such holders might be required to recognize income for tax purposes in different amounts and at different times than would be recognized in the absence of defeasance. Prospective investors are urged to consult their own tax advisors as to the specific consequences of defeasance.

Concerning the Trustees

Citibank, N.A. and JPMorgan Chase Bank conduct normal banking relationships with us and certain of our subsidiaries and, in addition, are participants in various financial agreements of the Company. Citibank, N.A. and JPMorgan Chase Bank act as trustee under certain equipment trust agreements of UPRR and trustee under various indentures in respect of certain of our securities and of securities of our subsidiaries.

DESCRIPTION OF PREFERRED STOCK

This section describes the general terms of the preferred stock to which any prospectus supplement may relate. A prospectus supplement will describe the terms relating to any preferred stock to be offered in greater detail, and may provide information that is different from this prospectus. If the information in the prospectus supplement with respect to the particular preferred stock being offered differs from this prospectus, you should rely on the information in the prospectus supplement. We may offer up to \$1,000,000,000 of preferred stock under this prospectus.

Summaries of some of the provisions of our revised articles of incorporation follow. We have filed a copy of the revised articles of incorporation as an exhibit to the registration statement. A certificate of amendment to

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the revised articles of incorporation will specify the terms of the preferred stock being offered, and will be filed as an exhibit to the registration statement or incorporated by reference before the preferred stock is issued.

The revised articles of incorporation authorize us to issue up to 20,000,000 shares of preferred stock, without par value. No shares of preferred stock are currently outstanding, and no shares are reserved for issuance. The board of directors is authorized to issue preferred stock in one or more series from time to time, with such designations, preferences and relative participating, optional or other special rights and qualifications, limitations and restrictions thereof, as may be provided in resolutions adopted by the board of directors. All shares of any one series of preferred stock will be identical, except that shares of any one series issued at different times may differ as to the dates from which dividends may be cumulative. All series shall rank equally and shall provide for other terms as described in the applicable prospectus supplement.

Preferred stock of a particular series will have the dividend, liquidation, redemption, conversion and voting rights described below unless otherwise provided in the prospectus supplement relating to that series. You should refer to the prospectus supplement relating to preferred stock being offered for a description of specific terms, including:

the distinctive serial designation and the number of shares constituting the series;

the dividend rate or rates, the payment date or dates for dividends and the participating or other special rights, if any, with respect to dividends;

any redemption, sinking or retirement fund provisions applicable to the preferred stock;

the amount or amounts payable upon the shares of preferred stock in the event of our voluntary or involuntary liquidation, dissolution or winding up prior to any payment or distribution of our assets to the holders of any class or classes of stock which are junior in rank to the preferred stock; and

any terms for the conversion into or exchange for shares of common stock, shares of preferred stock or debt securities.

The term "class or classes of stock which are junior in rank to the preferred stock" means our common stock, and any other class or classes of our stock hereafter authorized which rank junior to the preferred stock as to dividends or upon liquidation.

Dividends

Holders of preferred stock will be entitled to receive, when, as and if declared by the board of directors out of our funds legally available therefor, cash dividends payable on such dates in March, June, September and December of each year and at such rates per share per year as set forth in the applicable prospectus supplement. The prospectus supplement will also indicate the applicable record dates regarding the payment of dividends. The holders of preferred stock will be entitled to such cash dividends before any dividends on any class of stock junior in rank to preferred stock shall be declared or paid or set apart for payment. Whenever dividends shall not have been so paid or declared or set apart for payment upon all shares of each series of preferred stock, such dividends shall be cumulative and shall be paid, or declared and set apart for payment, before any dividends can be declared or paid on any class or classes of our stock junior in rank to the preferred stock. Any such accumulations of dividends on preferred stock shall not bear interest. The foregoing shall not apply to dividends payable in shares of any class or classes of stock junior in rank to the preferred stock.

Convertibility

No series of preferred stock will be convertible into, or exchangeable for, shares of common stock, shares of preferred stock or any other class or classes of our stock or debt securities except as set forth in the related prospectus supplement.

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Redemption and Sinking Fund

No series of preferred stock will be redeemable or receive the benefit of a sinking, retirement or other analogous fund except as set forth in the related prospectus supplement.

Liquidation Rights

Upon our voluntary or involuntary liquidation, dissolution or winding up, holders of any series of preferred stock will be entitled to receive payment of or to have set aside for payment the liquidation amount per share, if any, specified in the related prospectus supplement, in each case together with any applicable accrued and unpaid dividends, before any distribution to holders of common stock or any class of stock junior in rank to the preferred stock. A voluntary sale, lease, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of our property or assets to, or our consolidation or merger with one or more corporations, shall not be deemed to be our liquidation, dissolution or winding up for purposes of this paragraph.

Voting Rights

Except as provided below, holders of preferred stock shall be entitled to one vote for each share held and shall vote together with the holders of common stock as one class for the election of directors and upon all other matters which may be voted upon by our stockholders. Holders of preferred stock shall not possess cumulative voting rights in the election of directors. See [Description of Common Stock](#) [Voting Rights](#) for a discussion of voting rights in the election of directors.

If dividends on the preferred stock shall be in arrears in an aggregate amount at least equal to six quarterly dividends, then the holders of all series of preferred stock, voting separately as one class, shall be entitled, at the next annual meeting of our stockholders or at a special meeting held in place thereof, or at a special meeting of the holders of the preferred stock called as provided below, to elect two directors to our board of directors. While the holders of preferred stock are so entitled to elect two directors, they shall not be entitled to participate with the common stock in the election of any other members of our board of directors. Whenever all arrearages in dividends on the preferred stock shall have been paid and dividends thereon for the current quarterly period shall have been paid or declared and a sum sufficient for the payment thereof set aside, then the right of the holders of the preferred stock to elect two directors shall cease, provided that such voting rights shall again vest in the case of any similar future arrearages in dividends.

At any time after the right to vote for two directors shall have vested in the preferred stock, our secretary may, and, upon the written request of the holders of record of 10% or more of the shares of preferred stock then outstanding, shall call a special meeting of the holders of the preferred stock for the election of the directors to be elected by them, to be held within 30 days after such call and at the place and upon the notice provided by law and in our by-laws for the holding of meetings of stockholders. The secretary shall not be required to call such meeting in the case of any such request received less than 90 days before the date fixed for any annual meeting of our stockholders. If any such special meeting shall not be called by the secretary within 30 days after receipt of any such request, then the holders of record of 10% or more of the shares of preferred stock then outstanding may designate in writing one of their number to call such meeting, and the person so designated may call such meeting to be held at the place and upon the notice provided above and for that purpose shall have access to our stock ledger. No such special meeting and no adjournment thereof shall be held on a date later than 30 days before the annual meeting of our stockholders or a special meeting held in place thereof next succeeding the time when the holders of the preferred stock become entitled to elect directors as provided above.

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If any meeting of our stockholders shall be held while holders of preferred stock are entitled to elect two directors as provided above, and if the holders of at least a majority of the shares of preferred stock then outstanding shall be present or represented by proxy at such meeting or any adjournment thereof, then, by

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vote of the holders of at least a majority of the shares of preferred stock present or so represented at such meeting, the then authorized number of our directors shall be increased by two, and the holders of the preferred stock shall be entitled to elect the additional directors at such meeting. Each such additional director so elected shall hold office beyond the annual meeting of the stockholders or a special meeting held in place thereof next succeeding the time when the holders of the preferred stock become entitled to elect two directors as provided above. Whenever the holders of the preferred stock shall be divested of special voting power as provided above, the terms of office of all persons elected as directors by the holders of the preferred stock as a class shall forthwith terminate, and the authorized number of our directors shall be reduced accordingly.

The affirmative vote or consent of 66²/₃% of all shares of preferred stock outstanding shall be required before we may:

create any other class or classes of stock prior in rank to the preferred stock, either as to dividends or upon liquidation, or increase the number of authorized shares of such class of stock; or

amend, alter or repeal any provisions of our revised articles of incorporation adopted by the board of directors providing for the issuance of any series of preferred stock so as to adversely affect the preferences, rights or powers of the preferred stock.

The affirmative vote or consent of at least a majority of the shares of preferred stock at the time outstanding shall be required for us to:

increase the authorized number of shares of preferred stock;

create or increase the authorized number of shares of any other class of stock ranking on a parity with the preferred stock either as to dividends or upon liquidation; or

sell, lease or convey all or substantially all of our property or business, or voluntarily liquidate, dissolve or wind up the Company, or merge or consolidate the Company with any other corporation unless the resulting or surviving corporation will have after such merger or consolidation no stock either authorized or outstanding (except such stock of the corporation as may have been authorized or outstanding immediately preceding such merger or consolidation, or such stock of the resulting or surviving corporation as may be issued in exchange therefor) prior in rank either as to dividends or upon liquidation to the preferred stock or the stock of the resulting or surviving corporation issued in exchange therefor.

No consent of the holders of preferred stock shall be required in connection with any mortgaging or other hypothecation by us of all or any part of our property or business.

Transactions with Ten Percent Stockholders

Our revised articles of incorporation provide that certain transactions between us and a beneficial owner of more than 10% of our voting stock (which includes preferred stock) must either:

be approved by a majority of our voting stock other than that held by such beneficial owner;

satisfy minimum price and procedural criteria; or

be approved by a majority of our directors who are not related to such beneficial owner.

The transactions covered by these provisions include mergers, consolidations, sales or dispositions of assets, adoption of a plan of liquidation or dissolution, or other transactions involving a beneficial owner of more than 10% of our voting stock.

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Miscellaneous

The preferred stock offered hereby has no preemptive rights, is not liable for further assessments or calls and will be fully paid and non-assessable upon issuance. Shares of preferred stock which have been issued and reacquired in any manner by us shall resume the status of authorized and unissued shares of preferred stock and shall be available for subsequent issuance. There are no restrictions on repurchase or redemption of the preferred stock while there is any arrearage in dividends or sinking fund installments except as may be set forth in the related prospectus supplement.

Transfer Agent and Registrar

The transfer agent and registrar for each series of preferred stock will be described in the related prospectus supplement.

DESCRIPTION OF COMMON STOCK

This section describes the general terms of the common stock. We have filed a copy of our revised articles of incorporation as an exhibit to the registration statement. The common stock and the rights of common stockholders are subject to the applicable provisions of the Utah Revised Business Corporation Act and our revised articles of incorporation. We are presently authorized to issue 500,000,000 shares of common stock, par value \$2.50 per share. At November 30, 2003, an aggregate of 256,186,221 shares of common stock were outstanding. We may offer up to \$1,000,000,000 of common stock under this prospectus.

Dividends

Subject to the rights of holders of any preferred stock which may be issued, the holders of common stock are entitled to receive dividends when, as and if declared by the board of directors out of any legally available funds. We may not pay dividends on common stock, other than dividends payable in common stock or any other class or classes of stock junior in rank to the preferred stock as to dividends or upon liquidation, unless all dividends accrued on outstanding preferred stock have been paid or declared and set apart for payment.

Voting Rights

Holders of common stock are entitled to one vote for each share held. Except as provided in the related prospectus supplement, any series of preferred stock will be entitled, with certain exceptions, to vote together with the holders of common stock as one class for the election of directors and upon all matters voted upon by shareholders. See Description of Preferred Stock Voting Rights. In voting for the election of directors, holders of common stock shall not have the right to cumulate their votes. Notwithstanding that stockholders shall not be entitled to cumulate votes in the election of directors, no director may be removed if the votes of a sufficient number of shares are cast against removal which, at an election of the board of directors, would have been sufficient to elect that director if cumulative voting were applicable.

Liquidation Rights

Any preferred stock would be senior to the common stock as to distributions upon our liquidation, dissolution or winding up. After distribution in full of the preferential amounts to be distributed to holders of preferred stock, holders of common stock will be entitled to receive all of our remaining assets available for distribution to stockholders in the event of voluntary or involuntary liquidation.

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Transactions With Ten Percent Stockholders

The revised articles of incorporation provide for certain voting rights for the holders of our voting stock (including common stock) in the case of certain transactions between us and a beneficial owner of more than 10% of our voting stock. See [Description of Preferred Stock Transactions With Ten Percent Stockholders](#).

Miscellaneous

The common stock is not redeemable, has no preemptive or conversion rights and is not liable for further assessments or calls. All shares of common stock offered hereby will be fully paid and non-assessable.

Transfer Agent and Registrar

Computershare Trust Company of New York is the transfer agent and registrar for the common stock. The common stock is listed on the New York Stock Exchange.

DESCRIPTION OF SECURITIES WARRANTS

We may issue securities warrants for the purchase of debt securities or preferred stock. Securities warrants may be issued independently or together with any debt securities or shares of preferred stock offered by any prospectus supplement and may be attached to or separate from such debt securities or shares of preferred stock. The securities warrants will be issued under warrant agreements to be entered into between us and Citibank, N.A. or JPMorgan Chase Bank, as warrant agent, or such other bank or trust company as is named in the prospectus supplement relating to the particular issue of securities warrants. The warrant agent will act solely as our agent in connection with the securities warrants and will not assume any obligation or relationship of agency or trust for or with any holders of securities warrants or beneficial owners of securities warrants. The following summaries of certain provisions of the form of warrant agreement and securities warrants do not purport to be complete and are subject to, and are qualified in their entirety by reference to, all the provisions of the applicable warrant agreement and the securities warrants.

General

If securities warrants are offered, the prospectus supplement will describe the terms of the securities warrants, including the following if applicable to the particular offering:

the offering price;

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the currency, currencies or currency units for which securities warrants may be purchased;

the designation, aggregate principal amount, currency, currencies or currency units and terms of the debt securities purchasable upon exercise of the warrants and the price at which such debt securities may be purchased upon such exercise;

the designation, number of shares and terms of the series of preferred stock purchasable upon exercise of the securities warrants to purchase preferred stock and the price at which such shares of preferred stock may be purchased upon such exercise;

the designation and terms of the debt securities or preferred stock with which the securities warrants are issued and the number of securities warrants issued with each such debt security or share of preferred stock;

the date on and after which the securities warrants and the related debt securities or preferred stock will be separately transferable;

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the date on which the right to exercise the securities warrants shall commence and the date (the Expiration Date) on which such right shall expire;

whether the securities warrants will be issued in registered or bearer form;

a discussion of certain Federal income tax, accounting and other special considerations, procedures and limitations relating to the securities warrants; and

any other terms of the securities warrants.

We may exchange securities warrants for new securities warrants of different denominations. Securities warrants in registered form may be presented for registration of transfer. Securities warrants may be exercised at the corporate trust office of the warrant agent or any other office indicated in the prospectus supplement. Before the exercise of their securities warrants, holders of securities warrants will not have any of the rights of holders of the debt securities or shares of preferred stock purchasable upon such exercise, including the right to receive payments of principal of, any premium on, or any interest on, the debt securities purchasable upon such exercise or to enforce the covenants in the indenture or to receive payments of dividends, if any, on the preferred stock purchasable upon such exercise or to exercise any applicable right to vote.

Exercise of Securities Warrants

Each securities warrant will entitle the holder to purchase such principal amount of debt securities or such number of shares of preferred stock at such exercise price as shall in each case be set forth in, or calculable from, the prospectus supplement relating to the securities warrant. Securities warrants may be exercised at such times as are set forth in the prospectus supplement relating to such securities warrants. After the close of business on the Expiration Date (or such later date to which such Expiration Date may be extended by us), unexercised securities warrants will become void. Subject to any restrictions and additional requirements that may be set forth in the prospectus supplement relating thereto, securities warrants may be exercised by delivery to the warrant agent of the certificate evidencing such securities warrants properly completed and duly executed and of payment as provided in the prospectus supplement of the amount required to purchase the debt securities or shares of preferred stock purchasable upon such exercise. The exercise price will be the price applicable on the date of payment in full, as set forth in the prospectus supplement relating to the securities warrants. Upon receipt of such payment and the certificate representing the securities warrants to be exercised properly completed and duly executed at the corporate trust office of the warrant agent or any other office indicated in the prospectus supplement, we will, as soon as practicable, issue and deliver the debt securities or shares of preferred stock purchasable upon such exercise. If fewer than all of the securities warrants represented by such certificate are exercised, a new certificate will be issued for the remaining amount of securities warrants.

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PLAN OF DISTRIBUTION

We may sell the securities offered by this prospectus through underwriters or dealers, through agents, directly to purchasers, or through a combination of any such methods of sale. Any such underwriter, dealer or agent may be deemed to be an underwriter within the meaning of the Securities Act of 1933. The prospectus supplement relating to the offered securities will set forth their offering terms, including the following:

the name or names of any underwriters, dealers or agents;

the purchase price of the securities offered and the proceeds to us from such sale;

any underwriting discounts, commissions and other items constituting compensation to underwriters, dealers or agents;

any initial public offering price and any discounts or concessions allowed or reallocated or paid by underwriters or dealers to other dealers; and

any securities exchanges on which the offered securities may be listed.

If underwriters or dealers are used in the sale, the offered securities will be acquired by the underwriters or dealers for their own account and may be resold from time to time in one or more transactions, at a fixed price

or prices, which may be changed, or at market prices prevailing at the time of sale, or at prices related to such prevailing market prices, or at negotiated prices. The offered securities may be offered to the public either through underwriting syndicates represented by one or more managing underwriters or directly by one or more of such firms. Unless otherwise set forth in the prospectus supplement, the obligations of underwriters or dealers to purchase the offered securities will be subject to certain conditions precedent and the underwriters or dealers will be obligated to purchase all the offered securities if any are purchased. Any initial public offering price and any discounts or concessions allowed or reallocated or paid by underwriters or dealers to other dealers may be changed from time to time.

Offered securities may be sold directly by us or through agents designated by us from time to time. Any agent involved in the offer or sale of the offered securities in respect of which this prospectus is delivered will be named, and any commissions payable by us to such agent will be set forth in the prospectus supplement. Unless otherwise indicated in the prospectus supplement, any such agent will be acting on a best efforts basis for the period of its appointment.

If so indicated in the prospectus supplement, we will authorize underwriters, dealers or agents to solicit offers by certain specified institutions to purchase offered securities from us at the public offering price set forth in the prospectus supplement pursuant to delayed delivery contracts providing for payment and delivery on a specified date in the future. Such contracts will be subject to any conditions set forth in the prospectus supplement and the prospectus supplement will set forth the commission payable for solicitation of such contracts. The underwriters and other persons soliciting such contracts will have no responsibility for the validity or performance of any such contracts.

We may enter into derivative or other hedging transactions with financial institutions. These financial institutions may in turn engage in sales of securities to hedge their position, deliver this prospectus in connection with some or all of those sales and use the securities covered by this prospectus to close out any loan of securities or short position created in connection with those sales.

We may effect sales of securities in connection with forward sale agreements with third parties. Any distribution of securities pursuant to any forward sale agreement may be effected from time to time in one or more transactions that may take place through the New York Stock Exchange, including block trades or ordinary broker's transactions, or through broker-dealers acting either as principal or agent, or through privately negotiated transactions, or through an underwritten public offering, or through a combination of any such

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methods of sale, at market prices prevailing at the time of sale, at prices relating to such prevailing market prices or at negotiated or fixed prices.

We may pledge or grant a security interest in some or all of the securities covered by this prospectus to support a derivative or hedging position or other obligation and, if we default in the performance of our obligations, the pledgees or secured parties may offer and sell the securities from time to time pursuant to this prospectus.

When securities are to be sold to underwriters, unless otherwise set forth in the applicable prospectus supplement, the underwriters' obligations to purchase those securities will be subject to certain conditions precedent. If the underwriters purchase any of the securities, they will be obligated to purchase all of the securities. The underwriters will acquire the securities for their own accounts and may resell them, either directly to the public or to securities dealers, at various times in one or more transactions, including negotiated transactions, either at a fixed public offering price or at varying prices determined at the time of sale.

Any initial public offering price and any concessions allowed or reallocated to dealers may be changed intermittently.

Unless otherwise indicated in the applicable prospectus supplement, when securities are sold through an agent, the designated agent will agree, for the period of its appointment as agent, to use its best efforts to sell the securities for our account and will receive commissions from us as will be set forth in the applicable prospectus supplement.

Securities bought in accordance with a redemption or repayment under their terms also may be offered and sold, if so indicated in the applicable prospectus supplement, in connection with a remarketing by one or more firms acting as principals for their own accounts or as agents for us. Any remarketing firm will be identified and the terms of its agreement, if any, with us and its compensation will be described in the prospectus supplement. Remarketing firms may be deemed to be underwriters in connection with the securities remarketed by them.

Underwriters, dealers and agents may be entitled under agreements entered into with us to indemnification by us against certain civil liabilities, including liabilities under the Securities Act of 1933, or to contribution by us to payments they may be required to make in respect thereof. The terms and conditions of such indemnification will be described in an applicable prospectus supplement. Underwriters, dealers and agents may be customers of, engage in transactions with, or perform services for us in the ordinary course of business.

Each series of offered securities other than common stock will be a new issue of securities with no established trading market. Any underwriters to whom offered securities are sold by us for public offering and sale may make a market in such offered securities, but such underwriters will not be obligated to do so and may discontinue any market making at any time without notice. No assurance can be given as to the liquidity of the trading market for any offered securities.

Any underwriter may engage in stabilizing and syndicate covering transactions in accordance with Rule 104 under the Securities and Exchange Act of 1934. Rule 104 permits stabilizing bids to purchase the underlying security so long as the stabilizing bids do not exceed a specified maximum. The underwriters may over-allot offered securities, thereby creating a short position in the underwriters' account. Syndicate covering transactions involve purchases of offered securities in the open market after the distribution has been completed to cover syndicate short positions. Stabilizing and syndicate covering transactions may cause the price of the offered securities to be higher than it would otherwise be in the absence of such transactions. These transactions, if commenced, may be discontinued at any time.

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Each series of offered securities will be a new issue of securities and will have no established trading market. Any underwriters to whom offered securities are sold for public offering and sale may make a market in such offered securities, but such underwriters will not be obligated to do so and may discontinue any market making at any time without notice. The offered securities may or may not be listed on a national securities exchange. No assurance can be given that there will be a market for the offered securities.

This prospectus, the applicable prospectus supplement and any applicable pricing supplement in electronic format may be made available on the Internet sites of, or through other online services maintained by, us and/or one or more of the agents and/or dealers participating in an offering of securities, or by their affiliates. In those cases, prospective investors may be able to view offering terms online and, depending upon the particular agent or dealer, prospective investors may be allowed to place orders online.

Other than this prospectus, the applicable prospectus supplement and any applicable pricing supplement in electronic format, the information on our or any agent's or dealer's web site and any information contained in any other web site maintained by any agent or dealer is not part of this prospectus, the applicable prospectus supplement and any applicable pricing supplement or the registration statement of which they form a part; has not been approved or endorsed by us or by any agent or dealer in its capacity as an agent or dealer, except, in each case, with respect to the respective web site maintained by such entity; and should not be relied upon by investors.

LEGAL OPINIONS

The validity of the offered securities will be passed upon for us by James J. Theisen, Jr., Esquire, Senior Corporate Counsel of the Company, or another senior corporate counsel designated by us. Cravath, Swaine & Moore LLP, Worldwide Plaza, 825 Eighth Avenue, New York, New York 10019, will pass upon the validity of the offered securities for the underwriters, dealers or agents, unless otherwise specified in the prospectus supplement. As of November 30, 2003, Mr. Theisen beneficially owns 1,125 shares of common stock, including retention shares granted under our 1993 Stock Option and Retention Stock Plan and 2001 Stock Incentive Plan, and holds options to purchase 1,600 additional shares of the common stock. Cravath, Swaine & Moore has provided legal services from time to time to us and our affiliates.

EXPERTS

The consolidated financial statements and the related consolidated financial statement schedule of the Company and our subsidiaries as of December 31, 2002 and 2001 and for each of the years in the three-year period ended December 31, 2002, incorporated in this prospectus by reference from our Current Report on Form 8-K, filed on December 15, 2003, have been audited by Deloitte & Touche LLP, independent auditors, as stated in their report which is incorporated herein by reference, and have been so incorporated in reliance upon the report of such firm given upon their authority as experts in accounting and auditing.

Table of Contents**PART II****INFORMATION NOT REQUIRED IN PROSPECTUS****Item 14. Other Expenses of Issuance and Distribution***

Securities and Exchange Commission Registration Fee	\$ 80,900
Trustee s Fees and Expenses	75,000
Printing Expenses	100,000
Rating Agencies Fees	250,000
Accountants Fees and Expenses	100,000
Legal Fees and Expenses	50,000
Miscellaneous	10,000
	<hr/>
Total	\$ 665,900
	<hr/>

* All amounts are estimated except for the registration fee.

Item 15. Indemnification of Directors and Officers

Union Pacific Corporation (the Company) is a Utah corporation. Section 16-10a-901 et, seq. of the Utah Revised Business Corporation Act grants to a corporation the power to indemnify a person made a party to a lawsuit or other proceeding because such person is or was a director or officer. A corporation is further empowered to purchase insurance on behalf of any person who is or was a director or officer against any liability asserted against him or her and incurred by him or her in such capacity or arising out of his or her status as such capacity. The Company s by-laws provide for mandatory indemnification of its directors, officers and employees in certain circumstances. The Company maintains insurance on behalf of directors and officers against liability asserted against them arising out of their status as such.

The Company s revised articles of incorporation, incorporated herein as Exhibit 3.1 to this registration statement, eliminate in certain circumstances the personal liability of directors of the Company for monetary damages for a breach of their fiduciary duty as directors. This provision does not eliminate the liability of a director for (i) the amount of a financial benefit received by a director to which he is not entitled, (ii) an intentional infliction of harm on the corporation or the shareholders, (iii) a violation of Section 16-10a-842 of the Utah Revised Business Corporation Act (relating to the liability of directors for unlawful distributions) or (iv) an intentional violation of criminal law.

Reference is made to Section 6 of the form of underwriting agreement filed as Exhibit 1 to this registration statement for additional indemnification provisions.

Item 16. Exhibits

Edgar Filing: ZOOM TECHNOLOGIES INC - Form 10-Q

1. Form of Underwriting Agreement incorporated by reference to Exhibit 1 to the Company's Registration Statement of Form S-3 (File No. 333-88666), dated July 3, 2002.
- 3.1 Revised Articles of Incorporation of Union Pacific Corporation, as amended through April 25, 1996, incorporated by reference to Exhibit 3 to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 1996.
- 3.2 Form of Certificate of Amendment for Preferred Stock.*
- 3.3 By-laws of Union Pacific Corporation, as amended effective as of January 1, 2003, incorporated by reference to Exhibit 3(a) to the Company's Annual Report on Form 10-K dated December 31, 2002.
- 4.1 Indenture, dated as of December 20, 1996, between Union Pacific Corporation and Citibank, N.A., Trustee, incorporated by reference to Exhibit 4.1 to the Company's Registration Statement on Form S-3 (File No. 333-18345), dated December 20, 1996.

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4.2	Indenture, dated as of April 1, 1999, between Union Pacific Corporation and JPMorgan Chase Bank, formerly The Chase Manhattan Bank, Trustee, incorporated by reference to Exhibit 4.2 to the Company's Registration Statement on Form S-3 (File No. 333-75989), dated April 9, 1999.
4.3	Form of Warrant Agreement.*
4.4	Form of Debt Security, incorporated by reference to Exhibit 4.3 to the Company's Registration Statement on Form S-3 (File No. 33-59323), dated May 12, 1995.
5	Opinion and consent of James J. Theisen, Jr., Esquire, senior corporate counsel for the Company.
12.1	Computation of Ratio of Earnings to Fixed Charges, incorporated by reference to Exhibit 12 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2002 (as amended by Current Report on Form 8-K, dated December 15, 2003).
12.2	Computation of Ratio of Earnings to Fixed Charges, incorporated by reference to Exhibit 12 to the Company's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2003.
23.1	Consent of Deloitte & Touche LLP.
23.2	Consent of James J. Theisen, Jr., Esquire, senior corporate counsel for the Company (included in Exhibit 5).
24	Powers of Attorney.
25.1	Statement on Form T-1 of the eligibility of Citibank, N.A. under the Indenture, dated as of December 15, 2003.
25.2	Statement on Form T-1 of the eligibility of JPMorgan Chase Bank under the Indenture, dated as of December 5, 2003.

* To be filed by amendment.

Item 17. *Undertakings*

The Company hereby undertakes:

(1) To file, during any period in which offers or sales are being made of the securities registered hereby, a post-effective amendment to this registration statement:

(i) to include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

(ii) to reflect in the prospectus any facts or events arising after the effective date of this registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of the securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the SEC pursuant to Rule 424(b) promulgated under the Securities Act of 1933 if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective registration statement; and

(iii) to include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

provided, however, that the undertakings set forth in clauses (i) and (ii) above do not apply if the information required to be included in a post-effective amendment by those clauses is contained in periodic reports filed by the Company pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in this registration statement;

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof;

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(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering; and

(4) That, for the purposes of determining any liability under the Securities Act of 1933, each filing of the Company's annual report pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in this registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(e) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and persons controlling the Company pursuant to the provisions described under Item 15 above or otherwise, the Company has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is therefore unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Company of expenses incurred or paid by a director, officer or controlling person of the Company in the successful defense of any action, suit or proceeding) is asserted against the Company by such director, officer or controlling person in connection with the securities being registered, the Company will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

(ii) For the purpose of determining any liability under the Securities Act, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(g) To file an application for the purpose of determining the eligibility of the trustee to act under subsection (a) of Section 310 of the Trust Indenture Act in accordance with the rules and regulations prescribed by the SEC under Section 305(b)(2) of the Act.

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SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, Union Pacific Corporation certifies that it has reasonable grounds to believe that it meets all the requirements for filing on Form S-3 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Omaha, State of Nebraska, on this 15th day of December, 2003.

UNION PACIFIC CORPORATION

/s/ JAMES R. YOUNG

By: _____

Name: James R. Young

Title: Executive Vice President Finance

Pursuant to the requirements of the Securities Act of 1933, this registration statement on Form S-3 has been signed below on this 15th day of December, 2003, by the following person in the capacities indicated.

<u>Signature</u>	<u>Title</u>
<p>/s/ RICHARD R. DAVIDSON</p> <p>_____</p> <p>(Richard K. Davidson)</p>	<p>Chairman of the Board, President, Chief Executive Officer and Director (Principal Executive Officer)</p>
<p>/s/ JAMES R. YOUNG</p> <p>_____</p> <p>(James R. Young)</p>	<p>Executive Vice President Finance (Principal Financial Officer)</p>
<p>/s/ RICHARD J. PUTZ</p> <p>_____</p> <p>(Richard J. Putz)</p>	<p>Vice President and Controller (Principal Accounting Officer)</p>
<p>*</p> <p>_____</p> <p>(Philip F. Anschutz)</p>	<p>Director</p>
<p>*</p> <p>_____</p> <p>(Thomas J. Donohue)</p>	<p>Director</p>
<p>*</p>	<p>Director</p>

(Archie W. Dunham)

*

Director

(Spencer F. Eccles)

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	<u>Signature</u>	<u>Title</u>
	*	Director
	_____ (Ivor J. Evans)	
	*	Director
	_____ (Elbridge T. Gerry, Jr.)	
	*	Director
	_____ (Judith Richards Hope)	
	*	Director
	_____ (Richard J. Mahoney)	
	*	Director
	_____ (Stephen R. Rogel)	
	*	Director
	_____ (Ernesto Zedillo)	
*By:	/s/ THOMAS E. WHITAKER	
	_____ <i>As Attorney-in-Fact</i>	

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