

EMBARCADERO TECHNOLOGIES INC
 Form 4
 May 03, 2006

FORM 4

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

OMB APPROVAL

OMB Number: 3235-0287
 Expires: January 31, 2005
 Estimated average burden hours per response... 0.5

Check this box if no longer subject to Section 16. Form 4 or Form 5 obligations may continue. See Instruction 1(b).

STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF SECURITIES

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934, Section 17(a) of the Public Utility Holding Company Act of 1935 or Section 30(h) of the Investment Company Act of 1940

(Print or Type Responses)

1. Name and Address of Reporting Person *
CHOU TIMOTHY C K

(Last) (First) (Middle)

C/O EMBARCADERO TECHNOLOGIES, INC, 100 CALIFORNIA STREET, 12TH FLOOR

(Street)

SAN FRANCISCO, CA 94111

(City) (State) (Zip)

2. Issuer Name and Ticker or Trading Symbol
EMBARCADERO TECHNOLOGIES INC [EMBT]

3. Date of Earliest Transaction (Month/Day/Year)
 05/01/2006

4. If Amendment, Date Original Filed(Month/Day/Year)

5. Relationship of Reporting Person(s) to Issuer

(Check all applicable)

Director 10% Owner
 Officer (give title below) Other (specify below)

6. Individual or Joint/Group Filing(Check Applicable Line)

Form filed by One Reporting Person
 Form filed by More than One Reporting Person

Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned

1. Title of Security (Instr. 3)	2. Transaction Date (Month/Day/Year)	2A. Deemed Execution Date, if any (Month/Day/Year)	3. Transaction Code (Instr. 8)	4. Securities Acquired (A) or Disposed of (D) (Instr. 3, 4 and 5)	5. Amount of Securities Beneficially Owned Following Reported Transaction(s) (Instr. 3 and 4)	6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4)	7. Nature of Ownership (Instr. 4)
				(A) or (D)	Amount		Price
			Code	V			

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

Persons who respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB control number.

SEC 1474 (9-02)

Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned (e.g., puts, calls, warrants, options, convertible securities)

Edgar Filing: EMBARCADERO TECHNOLOGIES INC - Form 4

1. Title of Derivative Security (Instr. 3)	2. Conversion or Exercise Price of Derivative Security	3. Transaction Date (Month/Day/Year)	3A. Deemed Execution Date, if any (Month/Day/Year)	4. Transaction Code (Instr. 8)	5. Number of Derivative Securities Acquired (A) or Disposed of (D) (Instr. 3, 4, and 5)	6. Date Exercisable and Expiration Date (Month/Day/Year)	7. Title and Amount of Underlying Securities (Instr. 3 and 4)	8. Price or Value of Underlying Securities (Instr. 3 and 4)
Stock Option (right to buy)	\$ 6.04	05/01/2006		A	5,000	(1) 05/01/2016	Comon Stock 5,000	\$ 6

Reporting Owners

Reporting Owner Name / Address	Relationships			
	Director	10% Owner	Officer	Other
CHOU TIMOTHY C K C/O EMBARCADERO TECHNOLOGIES, INC 100 CALIFORNIA STREET, 12TH FLOOR SAN FRANCISCO, CA 94111	X			

Signatures

Timothy C.K. Chou (By: /s/ Stephen Ferruolo (Attorney-In-Fact)) 05/03/2006

**Signature of Reporting Person Date

Explanation of Responses:

- * If the form is filed by more than one reporting person, see Instruction 4(b)(v).
- ** Intentional misstatements or omissions of facts constitute Federal Criminal Violations. See 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).

(1) (1) Vesting of the stock option will be in equal quarterly installments for a period of three years.

Note: File three copies of this Form, one of which must be manually signed. If space is insufficient, see Instruction 6 for procedure. Potential persons who are to respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB number. nbsp;

*

0.10

October 21, 2010

October 20, 2020

*

1.10

April 5, 2012

April 4, 2022

*

0.983

March 22, 2013

March 21, 2023

Other individuals as a group

41,107,683

(2)

(2)

(3)

* The aggregate beneficial ownership of our company held by the named grantee is less than 1% of our total outstanding shares.

(1) The number of share options granted and exercise prices in this table, including footnote 2, gives effect to the ten-for-one share split that became effective on March 25, 2011.

On December 28, 2012, we modified the exercise price of the outstanding share options granted that had exercise prices of \$4.00 per ADS or higher, reducing them uniformly to \$3.30 per ADS (\$1.10 per ordinary share), which was the closing price of our ADS on the modification date. Options exercisable for a total of 27,480,309 ordinary shares were modified. The total incremental cost as a result of the modification was \$4.3 million, of which \$0.9 million was recognized as share-based compensation expense in 2012 and the remaining balance will be amortized over the expected requisite service period.

(2) We granted share options to other individuals on the following dates and at the following exercise prices: (i) on March 2, 2006, 1,079,400 options with an exercise price of US\$0.001 per share; (ii) on March 2, 2006, 10,204,000 options and on October 9, 2007, 700,000 options, each with an exercise price of US\$0.08 per share; (iii) on March 2, 2006, 4,410,670 options and on October 21, 2010, 47,780 options, each with an exercise price of US\$0.10 per share; (iv) on March 2, 2006, 18,176,960 options, on October 9, 2007, 21,342,000 options, on January 31, 2008, 13,109,500 options, on October 15, 2009, 14,164,000 options, on June 1, 2010, 490,000 options and on October 21, 2010, 11,180 options, each with an exercise price of US\$0.18 per share; (v) on March 2, 2006, 1,243,880 options with an exercise price of US\$0.20 per share; (vi) on October 9, 2007, 100,000 options with an exercise price of US\$0.26 per share; (vii) on October 9, 2007, 300,000 options with an exercise price of US\$0.28 per share; (viii) on October 9, 2007, 100,000 options with an exercise price of US\$0.30 per share; (ix) on October 9, 2007, 925,000 options with an exercise price of US\$0.35 per share; (x) on October 9, 2007, 220,000 options with an exercise price of US\$0.38 per share; (xi) on April 18, 2011, 3,346,500 options, on September 23, 2011, 519,000 options, on December 28, 2011, 1,639,107 options, on April 5, 2012, 831,000 options, on December 28, 2012, 3,203,400 options, each with an exercise price of 1.10 per share; (xii) on January 4, 2011, 10,688,500 options with an exercise price of US\$1.20 per share; and (xiii) on March 22, 2013, 987,000 options with an exercise price of US\$0.983 per share. As of March 31, 2013, 66,731,194 options had been forfeited, cancelled or exercised.

(3) Each option will expire after ten years from the grant date or such shorter period as the board of directors may determine at the time of its grant.

The following table summarizes the outstanding restricted share units granted to one of our executive officers and certain other individuals under the Plans as of March 31, 2013:

Table of Contents

Name	Number of Ordinary Shares Underlying Restricted Share Units Outstanding	Grant Date
Juan Zhou	*	December 28, 2011
Other individuals as a group	36,264	September 23, 2011
Other individuals as a group	1,800,285	December 28, 2011
Other individuals as a group	168,000	March 22, 2013

* The aggregate beneficial ownership of our company held by the named grantee is less than 1% of our total outstanding shares.

Principal Terms of 2006, 2008 and 2009 Equity Incentive Plans

The principal terms of the 2006 Plan, the 2008 Plan and the 2009 Plan are substantially the same. The following paragraphs summarize the principal terms of these three plans and, unless otherwise specified below, the following summary applies to each of these plans.

Types of Awards and Exercise Prices. Three types of awards may be granted under the plans.

- *Incentive share options.* Incentive share options are share options which satisfy the requirements of Section 422 of the Internal Revenue Code of 1986. The exercise price of an incentive share option must be at least equal to the fair market value of the shares on the date of grant. If an employee, officer or director owns or is deemed to own more than 10% of the combined voting power of all classes of shares and an incentive share option is granted to such person, the exercise price for such incentive share option shall be at least 110% of the fair market value of the shares on the date of grant.

- *Nonqualified share options.* Nonqualified share options are share options which do not satisfy the requirements of Section 422 of the Internal Revenue Code of 1986. The exercise price of a nonqualified share option may be less than, equal to or greater than the fair market value of the shares on the date of grant.

- *Restricted share options.* Restricted share options are options to purchases ordinary shares which are subject to certain restrictions or limitations set forth in the plans or in the related award agreement, and may be subject to risk of forfeiture. Unless otherwise determined by our plan administrator, a restricted share is nontransferable and may be forfeited or repurchased by us during a restricted period. The exercise price of restricted share options may be determined by the plan administrator in the award agreement.

Plan Administration. The plan administrator is our board of directors or a committee of two or more members of our board. The plan administrator designates the eligible optionees and determines the award type, award period, grant date, performance requirements and such other provisions and terms not inconsistent with the plans in each award agreement.

Edgar Filing: EMBARCADERO TECHNOLOGIES INC - Form 4

Award Agreement. Incentive share options, nonqualified share options or restricted share options granted under the plans are evidenced by an award agreement that sets forth the terms, provisions, limitations and performance requirements for each grant.

Eligibility. At the discretion of the board of directors, we may grant awards to employees, officers, directors, outside directors or consultants of our company.

Transfer Restriction. Subject to certain exceptions, awards for incentive share options, nonqualified share options and restricted share options may not be transferred, assigned, pledged, hypothecated or otherwise conveyed or encumbered by the award holders.

Term of Awards. Unless otherwise provided in the award agreement by the plan administrator, each option shall expire after ten years from the grant date. If an employee, officer or director owns or is deemed to own more than 10% of the combined voting power of all classes of shares and an incentive share option is granted to such person, such incentive share option shall expire after five years from the grant date.

Vesting Schedule. The plan administrator may determine the vesting schedule and may provide additional vesting conditions in the award agreement to each optionee.

Amendment and Termination. Our board of directors may at any time by resolutions amend the plans, subject to certain exceptions. Unless earlier terminated by the board or directors, the 2006 Plan will terminate on September 15, 2013, the 2008 Plan will terminate on September 15, 2013, and the 2009 Plan will terminate on December 31, 2019. In each case, grants made before the termination date will continue to be effective in accordance with their terms and conditions.

Table of Contents

Principal Terms of the 2011 Share Incentive Plan

The following paragraphs describe the principal terms of our 2011 Share Incentive Plan:

Types of Awards and Exercise Prices. The plan permits the grant of options to purchase our Class A ordinary shares, restricted shares and restricted share units as deemed appropriate by the plan administrator.

- *Options.* Options provide for the right to purchase a specified number of our Class A ordinary shares at a specified price and usually will become exercisable in the discretion of the plan administrator in one or more installments after the grant date. Options include incentive share options, which are share options which satisfy the requirements of Section 422 of the Internal Revenue Code of 1986, and non-qualified share options, which do not satisfy these requirements. The exercise price of an option shall be determined by the plan administrator and set forth in the award agreement.
- *Restricted Shares.* A restricted share award is the grant of our Class A ordinary shares which are subject to certain restrictions or limitations set forth in the plan or in the related award agreement. Unless otherwise determined by our plan administrator, a restricted share is nontransferable and may be forfeited or repurchased by us during a restricted period. The exercise price of restricted share options may be determined by the plan administrator in the award agreement.
- *Restricted Share Units.* Restricted share units represent the right to receive our Class A ordinary shares at a specified date in the future. On the maturity date specified by the plan administrator, we will transfer to the participant one unrestricted, fully transferable share for each restricted share unit.

Plan Administration. The plan will be administered by the board of directors or the compensation committee of the board, or a committee of one or more directors to whom the board or the compensation committee shall delegate the authority to grant or amend awards to participants other than senior executives. The plan administrator shall consist of at least two individuals, each of whom qualifies as an independent director. With respect to the awards granted to independent directors, the plan administrator shall be the board of directors. The plan administrator will determine the terms and conditions of each award grant.

Awards and Award Agreement. Awards granted under the plan are evidenced by award agreements that set forth the terms, conditions and limitations for each award, which may include the term of an award, the provisions applicable in the event the participant's employment or service terminates, and our authority to unilaterally or bilaterally amend, modify, suspend, cancel or rescind an award.

Eligibility. We may grant awards to our employees, directors and consultants, as determined by our plan administrator.

Edgar Filing: EMBARCADERO TECHNOLOGIES INC - Form 4

Term of the Awards. The term of each award grant shall be determined by our plan administrator, provided that the term shall not exceed ten years from the date of the grant.

Vesting Schedule. In general, the plan administrator determines, or the award agreement specifies, the vesting schedule.

Transfer Restrictions. Except as otherwise provided by our plan administrator, an award may not be transferred or otherwise disposed of by a participant other than by will or the laws of descent and distribution. Our plan administrator by express provision in the award or an amendment may permit an award (other than an incentive share option) to be transferred to or exercised by certain persons related to the participant.

Amendment and Termination of the Plan. With the approval of our board, our plan administrator may at any time amend, modify or terminate the plan, subject to certain exceptions.

Table of Contents

C. Board Practices

Composition of Board of Directors

Our board of directors currently consists of seven directors. A director is not required to hold any shares in the company by way of qualification. A director may vote with respect to any contract, proposed contract or arrangement in which he is materially interested provided the nature of the interest is disclosed prior to voting. A director may exercise all the powers of the company to borrow money, mortgage its undertaking, property and uncalled capital, and issue debentures or other securities whenever money is borrowed or as security for any obligation of the company or of any third party. None of our non-executive directors and independent director appointees has a service contract with us that provides for benefits upon termination of employment. As long as SB Pan Pacific Corporation and its affiliates continue to collectively hold over 50% of the number of our shares held by them as of May 9, 2011, they have the right to appoint one director to serve on our board of directors. Our director, Katsumasa Niki, was appointed by SB Pan Pacific Corporation.

Code of Business Conduct and Ethics

Our code of business conduct and ethics provides that our directors and officers are expected to avoid any action, position or interest that conflicts with the interests of our company or gives the appearance of a conflict. Directors and officers have an obligation under our code of business conduct and ethics to advance our company's interests when the opportunity to do so arises.

Duties of Directors

Cayman Islands law does not prescribe by statute the specific duties of directors of Cayman Islands companies and therefore the duties of directors are dictated by common law. Our directors have certain duties of care, diligence and skill as well as a fiduciary duty to act honestly and in good faith in the best interests of our company. Our directors are not required to exhibit in the performance of their duties a greater degree of skill than may reasonably be expected from persons of their knowledge and experience. Our directors must exercise reasonable care and diligence but will not be liable for errors of judgment and therefore they may rely upon opinions and advice of outsiders but must still exercise their business judgment based upon such advice. The fiduciary relationship of our directors is with our company and our directors therefore do not usually owe a fiduciary duty to an individual shareholder, and instead, they owe a fiduciary duty to our shareholders as a whole. In addition, our directors have a duty to act in good faith, which means they must act bona fide in the interests of our company. Our directors must also use their powers for a proper purpose. If our directors take actions which are within their powers but for purposes other than those for which such powers were conferred, they may be personally liable. Our directors are also required not to put themselves into a position where there is a conflict, actual or potential, between their personal interests and their duties to our company or between their duty to our company and a duty owed to another person. Finally, our directors cannot validly contract, either with one another or with third parties, as to how they shall vote at future meetings of directors. In fulfilling their duty of care to us, our directors must ensure compliance with our amended and restated memorandum and articles of association. We have the right to seek damages if a duty owed by our directors is breached.

Terms of Directors and Executive Officers

Edgar Filing: EMBARCADERO TECHNOLOGIES INC - Form 4

Our officers are elected by and serve at the discretion of the board of directors. Our directors are not subject to a set term of office and hold office until the next general meeting called for the election of directors and until their successor is duly elected or such time as they die, resign or are removed from office by special resolution or the unanimous written resolution of all shareholders. A director will be removed from office automatically if, among other things, the director (i) becomes bankrupt or makes any arrangement or composition with his creditors; or (ii) dies or is found by our company to be or becomes of unsound mind.

Committees of the Board of Directors

We have established three committees under the board of directors: the audit committee, the compensation committee and the corporate governance and nominating committee. We have adopted a charter for each of these committees. Each committee's members and functions are as follows.

Audit Committee. Our audit committee consists of Messrs. David Chao, Matthew Nimetz and Stephen Murphy. Mr. Chao is the chairman of our audit committee and our board of directors has determined that Mr. Chao is an audit committee financial expert. Mr. Chao, Mr. Nimetz and Mr. Murphy satisfy the independence requirements of Section 303A of the Corporate Governance Rules of the NYSE and Rule 10A-3 under the Exchange Act. The audit committee oversees our accounting and financial reporting processes and the audits of the financial statements of our company. The audit committee is responsible for, among other things:

Table of Contents

- selecting the independent registered public accounting firm and pre-approving all auditing and non-auditing services permitted to be performed by the independent registered public accounting firm;
- reviewing with the independent registered public accounting firm any audit problems or difficulties and management's response;
- reviewing and approving all proposed related party transactions, as defined in Item 404 of Regulation S-K under the Securities Act;
- discussing the annual audited financial statements with management and the independent registered public accounting firm;
- reviewing major issues as to the adequacy of our internal control and any special audit steps adopted in light of material control deficiencies; and
- meeting separately and periodically with management and the independent registered public accounting firm.

Compensation Committee. Our compensation committee consists of Messrs. Matthew Nimetz and David Chao. Mr. Nimetz is the chairman of our compensation committee. Mr. Nimetz and Mr. Chao satisfy the independence requirements of Section 303A of the Corporate Governance Rules of the NYSE. The compensation committee assists the board in reviewing and approving the compensation structure, including all forms of compensation, relating to our directors and executive officers. Our chief executive officer is prohibited from attending any committee meeting during which his compensation is deliberated. The compensation committee is responsible for, among other things:

- reviewing and approving the total compensation package for our chief executive officer;
- reviewing and recommending to the board the compensation of our directors; and
- reviewing periodically and approving any long-term incentive compensation or equity plans, programs or similar arrangements, annual bonuses, employee pension and welfare benefit plans.

Corporate Governance and Nominating Committee. Our corporate governance and nominating committee consists of Messrs. David Chao, Stephen Murphy and Chuanfu Wang, and is chaired by Mr. Chao. Mr. Chao, Mr. Murphy and Mr. Chuanfu Wang satisfy the independence requirements of Section 303A of the Corporate Governance Rules of the NYSE. The corporate governance and nominating committee assists the

Edgar Filing: EMBARCADERO TECHNOLOGIES INC - Form 4

board of directors in identifying individuals qualified to become our directors and in determining the composition of the board and its committees. The corporate governance and nominating committee is responsible for, among other things:

- identifying and recommending to the board nominees for election or re-election to the board, or for appointment to fill any vacancy;
- reviewing annually with the board the composition of the board in light of the characteristics of independence, age, skills, experience and availability of service to us;
- identifying and recommending to the board the directors to serve as members of the board's committees;
- advising the board periodically with respect to significant developments in the law and practice of corporate governance as well as our compliance with applicable laws and regulations, and making recommendations to the board on all matters of corporate governance and on any corrective action to be taken; and
- monitoring compliance with our code of business conduct and ethics, including reviewing the adequacy and effectiveness of our procedures to ensure proper compliance.

Table of Contents**Employment Agreements**

We have entered into employment agreements with each of our executive officers. We may terminate an executive officer's employment for cause, at any time, without notice or remuneration, for certain acts of the officer, including, but not limited to, a conviction or plea of guilty to a felony, willful misconduct to our detriment or a failure to perform agreed duties. We may also terminate an executive officer's employment without cause by a one-month prior written notice. An executive officer may terminate his or her employment with us by a one-month prior written notice for certain reasons, in which case the executive officer is entitled to the same severance benefits as in the situation of termination by us without cause.

Our executive officers have also agreed not to engage in any activities that compete with us, or to directly or indirectly solicit the services of our employees, for a period of one year after termination of employment. Each executive officer has agreed to hold in strict confidence any confidential information or trade secrets of our company. Each executive officer also agrees to comply with all material applicable laws and regulations related to his or her responsibilities at our company as well as all material corporate and business policies and procedures of our company.

D. Employees

We had 1,570, 3,410 and 4,602 full-time employees as of December 31, 2010, 2011 and 2012, respectively. The following table sets forth the number of our employees by function as of December 31, 2012:

Functional Area	Number of Employees	% of Total
Management and administration	418	9.0
Sales and marketing	1,566	34.0
Operations	456	10.0
Research & development	2,162	47.0
Total	4,602	100.0

As of December 31, 2012, we had 3,906 employees located in Beijing, 306 employees located in Guangzhou and 390 employees located in other cities in China.

We have leveraged a combination of internal training, incentives and events, such as our Geek Conference, to develop a corporate culture focused on speed of innovation, research and development, and the pursuit of excellence. We provide stock options to our employees to align their interests more closely with those of our shareholders. We consider our relationship with our employees to be good.

E. Share Ownership

Edgar Filing: EMBARCADERO TECHNOLOGIES INC - Form 4

The following table sets forth information with respect to the beneficial ownership of our ordinary shares (including Class A ordinary shares represented by our ADSs), as of March 31, 2013, by:

- each of our directors and executive officers; and
- each person known to us to own beneficially more than 5% of our ordinary shares.

The calculations in the table below are based on 1,136,397,903 ordinary shares outstanding as of March 31, 2013, including 731,009,453 Class A ordinary shares and 405,388,450 Class B ordinary shares. Beneficial ownership is determined in accordance with the rules and regulations of the SEC and includes voting or investment power with respect to our ordinary shares. In computing the number of ordinary shares beneficially owned by a person and the percentage ownership of that person, we have included shares that the person has the right to acquire within 60 days, including through the exercise of any option, warrant or other right or the conversion of any other security. These shares, however, are not included in the computation of the percentage ownership of any other person.

Table of Contents

	Ordinary Shares Beneficially Owned		% of Voting Power(2)
	number	%(1)	
Directors and Executive Officers:			
Joseph Chen(3)	274,808,970	24.1	56.5
James Jian Liu(4)	32,827,610	2.9	0.7
Katsumasa Niki(5)			
David K. Chao(6)	89,956,934	7.9	1.9
Matthew Nimetz(7)	*	*	*
Stephen Murphy(8)	*	*	*
Chuanfu Wang(9)	*	*	*
Hui Huang(10)	*	*	*
Alvin Chiang(10)	*	*	*
Chuan He(10)	*	*	*
Lillian Liu(10)	*	*	*
Derek Boyang Shen(10)	*	*	*
Jing Huang(10)	*	*	*
Jiang Wu(10)	*	*	*
Juan Zhou(10)	*	*	*
All directors and executive officers as a group(11)	409,888,953	35.8	59.3
Principal Shareholders:			
SB Pan Pacific Corporation and affiliate(12)	405,388,451	35.7	33.9
Joseph Chen(3)	274,808,970	24.1	56.5
DCM and affiliates(13)	87,929,871	7.7	1.8

* Less than 1% of our total outstanding ordinary shares.

- (1) For each person and group included in this column, percentage ownership is calculated by dividing the number of ordinary shares beneficially owned by such person or group by the sum of the number of ordinary shares outstanding and the number of ordinary shares such person or group has the right to acquire upon exercise of the share options or warrants within 60 days of March 31, 2013.
- (2) For each person and group included in this column, percentage of voting power is calculated by dividing the voting power beneficially owned by such person or group by the voting power with respect to all of our Class A and Class B ordinary shares as a single class. Each holder of our Class B ordinary shares is entitled to ten votes per share and each holder of Class A ordinary shares is entitled to one vote per share held by our shareholders on all matters submitted to them for a vote. Subject to certain exceptions, our Class A ordinary shares and Class B ordinary shares vote together as a single class on all matters submitted to a vote of our shareholders. Our Class B ordinary shares are convertible at any time by the holder into Class A ordinary shares on a one-for-one basis.
- (3) Represents (i) 270,258,970 Class B ordinary shares held by Mr. Joseph Chen and (ii) 4,550,000 Class A ordinary shares issuable upon exercise of options held by Mr. Chen that that are exercisable within 60 days after March 31, 2013. See the two paragraphs following this table for more information on Class A and Class B ordinary shares. The business address of Mr. Chen is 23/F, Jing An Center, 8 North Third Ring Road East, ChaoYang District, Beijing 100028, People s Republic of China.
- (4) Represents (i) 31,365,110 Class A ordinary shares held by Mr. James Jian Liu and (ii) 1,462,500 Class A ordinary shares issuable upon exercise of options held by Mr. Liu that that are exercisable within 60 days after March 31, 2013. The business address of Mr. Liu is 23F, Jing An Center, North Third Ring East Road, Chao Yang District, Beijing, 100028, People s Republic of China.
- (5) The business address of Mr. Niki is c/o SOFTBANK CORP., 1-9-1 Higashi-shimbashi, Minato-ku, Tokyo, 105-7303, Japan.
- (6) Represents (i) 1,958,000 Class A ordinary shares held by Mr. David Chao, (ii) 69,063 Class A ordinary shares issuable upon exercise of options held by Mr. Chao that that are exercisable within 60 days after March 31, 2013 and (iii) 87,929,871 Class A ordinary shares held by DCM and affiliates. DCM Investment Management III, LLC is the general partner of DCM. Mr. David Chao and Mr. Peter W. Moran are the managing members of DCM Investment Management III, LLC. See note 13, below, for more information on the shares held by DCM and affiliates. The business address of Mr. Chao is 2420 Sand Hill Road, Suite 200 Menlo Park, CA 94025.

Edgar Filing: EMBARCADERO TECHNOLOGIES INC - Form 4

- (7) The business address of Mr. Nimetz is Three Pickwick Plaza, Greenwich, Connecticut 06830.
- (8) The business address of Mr. Murphy is Syon Park, Middlesex, TW8 8JF, United Kingdom.
- (9) The business address of Mr. Wang is No. 3009, BYD Road, Pingshan, Shenzhen, 518118, China.
- (10) The business address of this individual is 23/F, Jing An Center, 8 North Third Ring Road East, Beijing, 100028, People's Republic of China.
- (11) Certain directors and executive officers have been granted options pursuant to our 2006, 2008 and 2009 Equity Incentive Plans and our 2011 Share Incentive Plan. See Item 6.B Directors, Senior Management and Employees Compensation Equity Incentive Plans.
- (12) The number of ordinary shares beneficially owned is as of December 31, 2011, as reported in a Schedule 13G filed by SB Pan Pacific Corporation and SOFTBANK CORP. on February 14, 2012, and consists of 270,258,971 Class A ordinary shares and 135,129,480 Class B ordinary shares held by SB Pan Pacific Corporation. See the two paragraphs following this table for more information on Class A and Class B ordinary shares. SB Pan Pacific Corporation is a corporation established under the laws of the Federated States of Micronesia, and is a wholly owned subsidiary of SOFTBANK CORP. SOFTBANK CORP. is a corporation established under the laws of Japan, and is a public company listed on the Tokyo Stock Exchange. On January 31, 2011, SOFTBANK CORP. transferred 2,582,200 series C preferred shares and 402,870,510 series D preferred shares to SB Pan Pacific Corporation, and, immediately prior to the completion of our initial public offering in May 2011, 135,129,480 of these series D preferred shares were converted into Class B ordinary shares on a one-to-one basis and the rest of the preferred shares held by SB Pan Pacific Corporation were converted into Class A ordinary shares on a one-to-one basis. The business address for SB Pan Pacific Corporation is P.O. Box 902, Kolonia, Pohnpei, FSM 96941, and the business address for SOFTBANK CORP. is 1-9-1 Higashi-Shimbashi, Minato-ku, Tokyo 105-7303, Japan.
- (13) The number of ordinary shares beneficially owned is as of December 31, 2011, as reported in a Schedule 13G filed by DCM (as defined below) and affiliates on February 13, 2012, and consists of (i) 81,768,285 Class A ordinary shares which are directly owned by DCM III, L.P. (DCM III), (ii) 2,166,501 Class A ordinary shares which are directly owned by DCM III-A, L.P. (DCM III-A) and (iii) 3,995,085 Class A ordinary shares which are directly owned by DCM Affiliates Fund III, L.P. (Aff III). We refer to DCM III, DCM III-A and Aff III collectively as DCM. DCM Investment Management III, LLC (GP III) is the general partner of DCM III, DCM III-A and Aff III and may be deemed to have sole power to vote and dispose these Class A ordinary shares respectively held by DCM III, DCM III-A and Aff III, and Mr. David Chao and Mr. Peter W. Moran, the managing members of GP III, may be deemed to have shared power to vote and dispose these Class A ordinary shares. As set forth in note 6 above, Mr. Chao also owns 1,958,000 Class A ordinary shares. The business address of DCM is 2420 Sand Hill Road, Suite 200 Menlo Park, CA 94025.

Table of Contents

Our ordinary shares are divided into Class A ordinary shares and Class B ordinary shares. Holders of Class A ordinary shares are entitled to one vote per share, while holders of Class B ordinary shares are entitled to ten votes per share. We issued Class A ordinary shares represented by our ADSs in our initial public offering in May 2011. Each Class B ordinary share is convertible into one Class A ordinary share at any time by the holder thereof, while Class A ordinary shares are not convertible into Class B ordinary shares under any circumstances. Upon any transfer of Class B ordinary shares by a holder thereof to any person or entity which is not an affiliate of such holder, such Class B ordinary shares shall be automatically and immediately converted into the equal number of Class A ordinary shares. See Item 10.B Additional Information Memorandum and Articles of Association Ordinary Shares for a more detailed description of our Class A ordinary shares and Class B ordinary shares.

To our knowledge, as of March 31, 2013, 431,017,239 Class A ordinary shares were held by one record holder in the United States, which was Citibank, N.A., the depository of our ADS program, and 270,258,970 Class B ordinary shares were held by one record holder in the United States. The number of beneficial owners of our ADSs in the United States is likely to be much larger than the number of record holders of our ordinary shares in the United States.

We are not aware of any arrangement that may, at a subsequent date, result in a change of control of our company. To our knowledge, we are not owned or controlled, directly or indirectly, by another corporation, by any foreign government or by any other natural or legal persons, severally or jointly.

For the options granted to our directors, officers and employees, please refer to Item 6.B Directors, Senior Management and Employees Compensation Equity Incentive Plans.

Item 7. Major Shareholders and Related Party Transactions

A. Major Shareholders

Please refer to Item 6.E. Directors, Senior Management and Employees—Share Ownership.

B. Related Party Transactions

Contractual Arrangements with Our Consolidated Affiliated Entities

Please refer to Item 4.C Information on the Company Organizational Structure Contractual Arrangements with Our Consolidated Affiliated Entities.

Related Party Transactions with Oak Pacific Holdings and Its Affiliates

The three largest shareholders of Oak Pacific Holdings are Mr. Joseph Chen, our founder, chairman and chief executive officer; James Jian Liu, our director and chief operating officer; and David Chao, our director. Collectively they hold approximately 98.5% of Oak Pacific Holdings. Summarized below are certain transactions our company has had with affiliates of Oak Pacific Holdings in 2012.

Table of Contents

Gummy Inc.

During 2011, we performed certain payment collection services to Gummy Inc., a subsidiary of Oak Pacific Holdings. These services amounted to approximately US\$44,000. As of December 31, 2012, Gummy Inc. owed our company approximately US\$20,000 for these services, which amount was unsecured, non-interest bearing and payable on demand.

Beijing Qian Xiang Hu Lian Technology Development Co., Ltd.

During 2012, we performed certain back office services for Beijing Qian Xiang Hu Lian Technology Development Co., Ltd., or Hu Lian Technology, which is a subsidiary of Oak Pacific Holdings. These services included provisions of human resources and accounting services and amounted to US\$0.3 million. As of December 31, 2012, Hu Lian Technology owed our company US\$126,000 for these services, which amount was unsecured, non-interest bearing and payable on demand.

SBPS

SBPS, an affiliate of SB Pan Pacific Corporation, provided third party collection services for our subsidiary in Japan in 2012. These services amounted to approximately US\$1.1 million. As of December 31, 2012, we owed SBPS US\$112,000 for these services, which amount was unsecured, non-interest bearing and payable on demand.

Mapbar Technology Limited

In October 2011, we acquired a 35% equity interest in Mapbar Technology Limited, or Mapbar, and accounted for the investment using equity method as we are able to exercise significant influence over Mapbar. During 2012, Mapbar performed approximately US\$304,000 of location-based services for our company. As of December 31, 2012, our company owed Mapbar US\$77,000 for these services, which amount was unsecured, non-interest bearing and payable on demand.

Transactions with Social Finance Inc.

In July 2012, we purchased \$10.0 million Series 2012-A Senior Secured Refi Loan Notes issued by SoFi Lending Corp., a subsidiary of Social Finance Inc. Oak Pacific Holdings is a shareholder of Social Finance Inc. and our chairman and chief executive officer, Joseph Chen, is a director of Social Finance Inc. The note has a maturity date of July 3, 2032 and a fixed annual interest rate of 4% with no redemption feature. We received monthly payments, including return of principal of \$414,000 and earned interest of \$137,000, from SoFi Lending Corp. in 2012. As of December 31, 2012, the carrying amount of the note was \$9,586,000.

In September 2012, we invested \$49.0 million in newly issued series B preferred shares of Social Finance Inc., concurrently with a group of other investors.

The transactions described above were approved by the independent, disinterested members of our board and the audit committee of the board.

Employment Agreement

Please refer to Item 6.C Directors, Senior Management and Employees—Board Practices Employment Agreements.

C. Interests of Experts and Counsel

Not applicable.

Item 8. Financial Information

A. Consolidated Statements and Other Financial Information

See Item 18. Financial Statements.

Legal Proceedings

From time to time, we have become and may in the future become a party to various legal or administrative proceedings arising in the ordinary course of our business, including actions with respect to intellectual property claims, breach of contract claims, labor and employment claims and other matters. Internet media companies are frequently involved in litigation based on allegations of infringement or other violations of intellectual property rights and other allegations based on the content available on their website or services they provide. See Item 3.D Risk Factors Risks Relating to Our Business and Our Industry We have been and may continue to be exposed to intellectual property infringement claims or other allegations by third parties for services we provide or for information or content displayed on, retrieved from or linked to our websites, or distributed to website users, which could materially and adversely affect our business and results of operations. Although such proceedings are inherently uncertain and their results cannot be predicted with certainty, we believe that the resolution of our current pending matters will not have a material adverse effect on our business, consolidated financial position, results of operations or cash flow. Regardless of the outcome, however, any litigation can have an adverse impact on us because of defense costs, diversion of management's attention and other factors.

Table of Contents

Dividend Policy

We have not paid in the past any cash dividends on our ordinary shares, and we do not have any present plan to pay in the foreseeable future any cash dividends on our ordinary shares. We currently intend to retain most, if not all, of our available funds and any future earnings to operate and expand our business.

As we are a holding company, we rely, in part, on dividends paid to us by our PRC subsidiary for our cash requirements, including funds to pay dividends and other cash distributions to our shareholders, service any debt we may incur and pay our operating expenses. In China, the payment of dividends is subject to limitations. PRC laws and regulations currently permit payment of dividends only out of accumulated profits as determined in accordance with PRC accounting standards and regulations. Under current PRC laws and regulations, our PRC subsidiaries are required to set aside at least 10% of their respective accumulated profits each year, if any, to fund certain reserve funds until such reserve funds reach 50% of their registered capital. At the discretion of our PRC subsidiary, it may allocate a portion of its after-tax profits based on PRC accounting standards to staff welfare and bonus funds. These reserves may not be distributed as cash dividends. Further, if our PRC subsidiary incurs debt on its own behalf in the future, the instruments governing the debt may restrict its ability to pay dividends or make other payments to us. See Item 3.D Risk Factors Risks Related to Our Corporate Structure and the Regulation of Our Business We may rely on dividends and other distributions on equity paid by our PRC subsidiary to fund any cash and financing requirements we may have. Any limitation on the ability of our PRC subsidiary to pay dividends to us could have a material adverse effect on our ability to conduct our business.

Our board of directors has complete discretion on whether to distribute dividends. Even if our board of directors decides to pay dividends, the form, frequency and amount will depend upon our future operations and earnings, capital requirements and surplus, general financial condition, contractual restrictions and other factors that the board of directors may deem relevant. If we pay any dividends, they will be paid in accordance with Cayman Islands law, which provides, in summary, that dividends may be paid out of profits and/or our share premium account provided that in the case of our share premium account, no such distribution or dividend paid to our shareholders will cause us to be unable to pay our debts as they fall due in the ordinary course of our business. In addition, the Companies Law (2012 Revision) of the Cayman Islands prevents us from offering our shares or securities to individuals within the Cayman Islands, which may limit our ability to distribute a dividend comprised of our shares or other securities. We will pay our ADS holders to the same extent as holders of our ordinary shares, subject to the terms of the deposit agreement, including the fees and expenses payable thereunder. See Description of American Depositary Shares in our registration statement on Form F-1 (File No. 333-173548), as amended, initially filed with the SEC on April 15, 2011. Cash dividends on our ordinary shares, if any, will be paid in U.S. dollars.

B. Significant Changes

Except as disclosed elsewhere in this annual report, we have not experienced any significant changes since the date of our audited consolidated financial statements included in this annual report.

Item 9. The Offer and Listing

A. Offering and Listing Details

Explanation of Responses:

See C. Markets

B. Plan of Distribution

Not applicable.

Table of Contents**C. Markets**

Our ADSs, each representing three Class A ordinary shares, have been listed on the New York Stock Exchange since May 4, 2011 and trade under the symbol RENN. The following table provides the high and low trading prices for our ADSs on the New York Stock Exchange for the periods indicated. The last reported closing price for our ADSs on April 22, 2013 was US\$2.60 per ADS.

	Market Price (US\$)	
	High	Low
Annual High and Low		
Fiscal Year 2011(from May 4, 2011)	24.00	3.21
Fiscal Year 2012	7.87	3.00
Quarterly Highs and Lows		
Second Fiscal Quarter of 2011 (from May 4, 2011)	24.00	6.13
Third Fiscal Quarter of 2011	11.99	4.96
Fourth Fiscal Quarter of 2011	7.34	3.21
First Fiscal Quarter of 2012	6.80	3.39
Second Fiscal Quarter of 2012	7.87	4.19
Third Fiscal Quarter of 2012	4.61	3.51
Fourth Fiscal Quarter of 2012	4.08	3.00
First Fiscal Quarter of 2013	4.02	2.85
Monthly Highs and Lows		
October 2012	4.08	3.26
November 2012	3.60	3.21
December 2012	3.50	3.00
January 2013	4.02	3.31
February 2013	3.44	2.95
March 2013	3.24	2.85
April 2013 (through April 22, 2013)	2.93	2.58

D. Selling Shareholders

Not applicable.

E. Dilution

Not applicable.

F. Expenses of the Issue

Explanation of Responses:

Not applicable.

Item 10. Additional Information

A. Share Capital

Not applicable.

B. Memorandum and Articles of Association

We are a Cayman Islands company and our affairs are governed by our amended and restated memorandum and articles of association, as amended from time to time, and the Companies Law (2012 Revision) of the Cayman Islands, which is referred to below as the Companies Law.

The following are summaries of the material provisions of our amended and restated memorandum and articles of association and the Companies Law insofar as they relate to the material terms of our ordinary shares.

Table of Contents

Registered Office and Objects

Our registered office in the Cayman Islands is located at PO Box 309, Ugland House, Grand Cayman, KY1-1104, Cayman Islands. As set forth in article 3 of our memorandum of association, the objects for which our company is established are unrestricted and we have full power and authority to carry out any object not prohibited by the Companies Law (2012 Revision), as amended from time to time, or any other law of the Cayman Islands.

Board of Directors

See Item 6.C. Directors, Senior Management and Employees Board Practices Composition of Board of Directors and Item 6.C. Directors, Senior Management and Employees Board Practices Terms of Directors and Executive Officers.

Ordinary Shares

General. Our ordinary shares are divided into Class A ordinary shares and Class B ordinary shares. Holders of Class A ordinary shares and Class B ordinary shares have the same rights except for voting and conversion rights. Certificates representing the ordinary shares are issued in registered form. Our shareholders who are non-residents of the Cayman Islands may freely hold and vote their shares.

Dividends. The holders of our ordinary shares are entitled to such dividends as may be declared by our board of directors subject to the Companies Law. The Companies Law provides, in summary, that dividends may be paid out of profits and/or our share premium account provided that in the case of our share premium account, no such distribution or dividend paid to our shareholders will cause us to be unable to pay our debts as they fall due in the ordinary course of our business. In addition, the Companies Law prevents us from offering our shares or securities to individuals within the Cayman Islands which may limit our ability to distribute a dividend comprised of our shares or other securities.

Conversion. Each Class B ordinary share is convertible into one Class A ordinary share at any time by the holder thereof. Class A ordinary shares are not convertible into Class B ordinary shares under any circumstances. All Class B ordinary shares beneficially owned by a holder and such holder's affiliates will automatically convert into the same number of Class A ordinary shares if the holder and its affiliates collectively own less than 50% of the total shares held by them immediately upon the completion of our initial public offering in May 2011. In addition, upon any transfer of Class B ordinary shares by a holder to any person or entity which is not over 50% owned by, or is not a direct family member of, the original holder, such Class B ordinary shares shall be automatically and immediately converted into an equal number of Class A ordinary shares. Furthermore, if a holder of the Class B ordinary shares transfers Class B ordinary shares to any entities in which the original holder owns over 50% but less than 100%, the number of Class B ordinary shares equal to the product of (X) the total number of Class B ordinary shares so transferred; and (Y) the difference between 100% and the percentage of ownership held by the original holder in the transferee shall be automatically and immediately converted into an equal number of Class A ordinary share.

Edgar Filing: EMBARCADERO TECHNOLOGIES INC - Form 4

Voting Rights. In respect of matters requiring shareholders' votes, each Class A ordinary share is entitled to one vote and each Class B ordinary share is entitled to ten votes. In addition, the following matters are subject to the approval by the holders representing a majority of the aggregate voting power of our company, the holders of a majority of total outstanding Class A ordinary shares and, for as long as SB Pan Pacific Corporation and its affiliates collectively own no less than 50% of the total shares held by them immediately upon the completion of our initial public offering, the approval of SB Pan Pacific Corporation: (i) a change of control event, and (ii) election of director(s) to the board at an annual general meeting. In addition, for as long as SB Pan Pacific Corporation and its affiliates collectively own no less than 50% of the total shares held by them immediately upon the completion of our initial public offering, we need to obtain SB Pan Pacific Corporation's approval for the following matters: (i) issuance of ordinary shares, or of securities convertible into or exercisable for ordinary shares, in the aggregate in excess of 10% of the number of all ordinary shares outstanding immediately prior to the issuance of such shares or securities on an as-converted basis in any 12-month period, (ii) acquisition of major assets or business for consideration exceeding 10% of our company market capitalization; (iii) disposals of our material assets with a value exceeding 5% of our company's market capitalization; or (iv) any amendment to our amended and restated memorandum and articles of association that specifically adversely affects the rights of SB Pan Pacific Corporation. In addition, for as long as SB Pan Pacific Corporation and its affiliates collectively own no less than 50% of the total shares held by them immediately upon the completion of our initial public offering, SB Pan Pacific Corporation and its affiliates will have the right to collectively appoint one director and the exclusive right to remove such director.

Table of Contents

A quorum required for a meeting of shareholders consists of at least one shareholder present in person or by proxy or, if a corporation or other non-natural person, by its duly authorized representative holding not less than an aggregate of one-third of all voting power of the shares in issue. Shareholders' meetings are held annually and may be convened by any one of our directors on its own initiative or upon a request to the directors by shareholders holding in aggregate at least one-third of our voting power of our share capital. Advance notice of at least seven days is required for the convening of our annual general meeting and other shareholders' meetings.

An ordinary resolution to be passed by the shareholders requires the affirmative vote of a simple majority of the votes attaching to the ordinary shares cast in a general meeting, while a special resolution requires the affirmative vote of no less than two-thirds of the votes cast attaching to the ordinary shares. A special resolution is required for important matters such as an amendment to our amended and restated memorandum and articles of association. Holders of the ordinary shares may effect certain changes by ordinary resolution, including altering the amount of our authorized share capital, consolidating and dividing all or any of our share capital into shares of larger amount than our existing share capital, and canceling any shares.

Transfer of Shares. Subject to the restrictions of our amended and restated memorandum and articles of association, which allows our directors to decline to register a transfer of any share which is not fully paid or on which we have a lien and to decline to recognize an instrument of transfer should it fail to comply with the form prescribed by our board or our transfer agent, any of our shareholders may transfer all or any of his or her ordinary shares by an instrument of transfer in the usual or common form or any other form approved by our board, and we will take all steps necessary to ensure that the transferee is entered on the register of members in order for the transfer to be effective. We understand that no further approval by any authority in the Cayman Islands will be required in order for the transfer of shares to be effective.

Liquidation. On a liquidation winding up, distribution or payment shall be made to the holders of ordinary shares. Considerations received by each Class B ordinary share and Class A ordinary share should be the same in any liquidation event. Assets available for distribution among the holders of ordinary shares shall be distributed among the holders of the ordinary shares on a pro rata basis. If our assets available for distribution are insufficient to repay all of the paid-up capital, the assets will be distributed so that the losses are borne by our shareholders proportionally.

Calls on Shares and Forfeiture of Shares. Our board of directors may from time to time make calls upon shareholders for any amounts unpaid on their shares in a notice served to such shareholders at least 14 days prior to the specified time and place of payment. The shares that have been called upon and remain unpaid on the specified time are subject to forfeiture.

Redemption of Shares. The provisions of the Companies Law, in summary, provides that provided our amended and restated articles of association permit it, we may issue shares which are to be redeemed or are liable to be redeemed at the option of our directors or a shareholder. In addition, the Companies Law allows us to purchase our own share, including any redeemable shares. Shares to be purchased or redeemed must be fully paid and there must remain at least one shareholder of the company holding shares. Share re-purchases or redemptions may be funded out of profits, capital or share premium, but to the extent funds other than profits are used, it is statutorily required that we be able to pay our debts as they fall due in our ordinary course of business following such a purchase or redemption. Subject to these provisions, our amended and restated articles of association allow us to issue shares on terms that are subject to either re-purchase by us or redemption, at our option or at the option of the holders, on such terms and in such manner as may be determined by special resolution.

Variations of Rights of Shares. All or any of the special rights attached to any class of shares may, subject to the provisions of our amended and restated articles of association, be varied either with the written consent of the holders of a 75% of the issued shares of that class or with the sanction of a special resolution passed at a general meeting of the holders of the shares of that class. The rights conferred upon the holders of the shares of any class shall not, unless otherwise expressly provided by the terms of issue of the shares of that class, be deemed to be varied by the

creation or issue of further shares ranking in priority to or pari passu with such previously existing shares.

Table of Contents

Inspection of Books and Records. Holders of our ordinary shares will have no general right under Cayman Islands law to inspect or obtain copies of our list of shareholders or our corporate records, with the exception that, pursuant to statutory requirements, any of our creditors or shareholder may inspect our register of mortgages and charges, which includes details of any mortgage and change over our assets. We will provide our shareholders with annual audited financial statements.

Anti-Takeover Provisions. Some provisions of our amended and restated memorandum and articles of association may discourage, delay or prevent a change of control of our company or management that shareholders may consider favorable, including provisions that:

- authorize our board of directors to issue preference shares in one or more series and to designate the price, rights, preferences, privileges and restrictions of such preference shares without any further vote or action by our shareholders; and
- establish advance notice requirements for nominating board of directors nominees or for proposing matters that can be acted on by shareholders at annual shareholder meetings.

However, under Cayman Islands law, our directors may only exercise the rights and powers granted to them under our amended and restated memorandum and articles of association for a proper purpose and for what they honestly believe in good faith to be in the best interests of our company.

Rights of Non-resident or Foreign Shareholders. There are no limitations imposed by our amended and restated memorandum and articles of association on the rights of non-resident or foreign shareholders to hold or exercise voting rights on our shares. In addition, there are no provisions in our amended and restated memorandum and articles of association governing the ownership threshold above which shareholder ownership must be disclosed.

C. Material Contracts

For the two years immediately preceding the date of this annual report, we have not entered into any material contracts, other than in the ordinary course of business or those described in Item 4. Information on the Company or elsewhere in this annual report on Form 20-F.

D. Exchange Controls

The Cayman Islands currently has no exchange control restrictions. See also Item 4.B Information on the Company Business Overview Regulation Regulations on Foreign Exchange.

E. Taxation

The following discussion of the material Cayman Islands, PRC and United States federal income tax consequences of an investment in our Class A ordinary shares or ADSs is based upon laws and relevant interpretations thereof in effect as of the date of this annual report, all of which are subject to change. This discussion does not deal with all possible tax consequences relating to an investment in the Class A ordinary shares or ADSs, such as the tax consequences under U.S. state, local and other tax laws. To the extent that the discussion relates to matters of Cayman Islands tax law, it is the opinion of Maples and Calder, our Cayman Islands counsel, and to the extent it relates to PRC tax law, it is the opinion of TransAsia Lawyers, our PRC counsel.

Cayman Islands Taxation

We are an exempted company incorporated in the Cayman Islands. The Cayman Islands currently levies no taxes on individuals or corporations based upon profits, income, gains or appreciation and there is no taxation in the nature of inheritance tax or estate duty. There are no other taxes likely to be material to us levied by the Government of the Cayman Islands except for stamp duties which may be applicable on instruments executed in, or brought within the jurisdiction of the Cayman Islands. The Cayman Islands is not party to any double tax treaties that are applicable to any payments made to or by our company. There are no exchange control regulations or currency restrictions in the Cayman Islands.

Table of Contents

People's Republic of China Taxation

We are a holding company incorporated in the Cayman Islands, and 100% of our equity interests in our PRC subsidiaries are held indirectly through our offshore holding companies. Our business operations are principally conducted through our PRC subsidiaries and consolidated affiliated entities. The Enterprise Income Tax Law and its implementation rules, both of which became effective on January 1, 2008, provide that China-sourced income of foreign enterprises, such as dividends paid by a PRC subsidiary to its overseas parent that is not a PRC resident enterprise and has no establishment in the PRC, will normally be subject to PRC withholding tax at a rate of 10%. Under the Enterprise Income Tax Law, enterprises established under the laws of jurisdictions outside China with their de facto management bodies located within China may be considered to be PRC tax resident enterprises for tax purposes. If we are considered a PRC tax resident enterprise under the above definition, then our global income will be subject to PRC enterprise income tax at the rate of 25%.

The implementation rules of the Enterprise Income Tax Law provide that (i) if the enterprise that distributes dividends is domiciled in the PRC, or (ii) if gains are realized from transferring equity interests of enterprises domiciled in the PRC, then such dividends or capital gains are treated as China-sourced income. It is not clear how domicile may be interpreted under the Enterprise Income Tax Law, and it may be interpreted as the jurisdiction where the enterprise is a tax resident. Therefore, if we are considered as a PRC tax resident enterprise for tax purposes, any dividends we pay to our overseas shareholders or ADS holders as well as gains recognized by such shareholders or ADS holders from the transfer of our shares or ADSs may be regarded as China-sourced income and as a result become subject to PRC withholding tax at a rate of up to 10%.

See Item 3.D Risk Factors Risks Related to Doing Business in China Our global income and the dividends that we may receive from our PRC subsidiary, dividends distributed to our non-PRC shareholders and ADS holders, and gain recognized by such shareholders or ADS holders, may be subject to PRC taxes under the Enterprise Income Tax Law, which would have a material adverse effect on our results of operations.

Certain United States Federal Income Tax Considerations

The following is a discussion of certain United States federal income tax considerations relating to the acquisition, ownership and disposition of our ADSs or ordinary shares by a U.S. Holder (as defined below) that acquires our ADSs or ordinary shares and holds our ADSs or ordinary shares as capital assets (generally, property held for investment) under the United States Internal Revenue Code of 1986, as amended (the Code). This discussion is based upon existing United States federal tax law, including the Code, its legislative history, existing, temporary and proposed regulations thereunder, published rulings and court decisions, all of which are subject to differing interpretations or change, possibly with retroactive effect. No ruling has been sought from the Internal Revenue Service (the IRS) with respect to any United States federal income tax consequences described below, and there can be no assurance that the IRS or a court will not take a contrary position. This discussion does not address all aspects of United States federal income taxation that may be important to particular investors in light of their individual investment circumstances, including investors subject to special tax rules (for example, financial institutions, insurance companies, regulated investment companies, real estate investment trusts, broker-dealers, traders in securities that elect mark-to-market treatment, partnerships (or other entities treated as partnerships for United States federal income tax purposes) and their partners and tax-exempt organizations (including private foundations), holders who are not U.S. Holders, holders who own (directly, indirectly or constructively) 10% or more of our voting stock, holders who acquire their ADSs or ordinary shares pursuant to any employee share option or otherwise as compensation, investors that will hold their ADSs or ordinary shares as part of a straddle, hedge, conversion, constructive sale or other integrated transaction for United States federal income tax purposes, or investors that have a functional currency other than the United States dollar, all of whom may be subject to tax rules that differ significantly from those summarized below. In addition, this discussion does not discuss any United States federal estate, gift or alternative minimum tax consequences or any non-United States, state or local tax considerations. Each U.S. Holder is urged to consult its tax advisor regarding the United States federal, state, local and non-United States income and other tax considerations of an investment in our ADSs or ordinary shares.

General

For purposes of this discussion, a "U.S. Holder" is a beneficial owner of our ADSs or ordinary shares that is, for United States federal income tax purposes, (i) an individual who is a citizen or resident of the United States, (ii) a corporation (or other entity treated as a corporation for United States federal income tax purposes) created in, or organized under the law of, the United States or any state thereof or the District of Columbia, (iii) an estate the income of which is includible in gross income for United States federal income tax purposes regardless of its source, or (iv) a trust (A) the administration of which is subject to the primary supervision of a United States court and which has one or more United States persons who have the authority to control all substantial decisions of the trust or (B) that has otherwise validly elected to be treated as a United States person under the Code.

Table of Contents

If a partnership (or other entity treated as a partnership for United States federal income tax purposes) is a beneficial owner of our ADSs or ordinary shares, the tax treatment of a partner in the partnership will generally depend upon the status of the partner and the activities of the partnership. If a U.S. Holder is a partner of a partnership holding our ADSs or ordinary shares, the U.S. Holder is urged to consult its tax advisor regarding an investment in our ADSs or ordinary shares.

Our company is a corporation organized under the laws of the Cayman Islands. As such, our company believes that it is not a United States corporation for United States federal income tax purposes. Under certain provisions of the Code and regulations, however, if pursuant to a plan (or a series of related transactions), a non-United States corporation such as our company acquires substantially all of the assets of a United States corporation, and after the acquisition 80% or more of the stock (by vote or value) of the non-United States corporation (excluding stock issued in a public offering related to the acquisition) is owned by former shareholders of the United States corporation by reason of their ownership of the United States corporation, the non-United States corporation will be considered a United States corporation for United States federal income tax purposes. Based on our analysis of the facts related to our corporate restructuring in 2005 and 2006, we do not believe that we should be treated as a United States corporation for United States federal income tax purposes. However, as there is no direct authority on how the relevant rules of the Code might apply to us, our company's conclusion is not free from doubt. Therefore, our conclusion may be challenged by the United States tax authorities and a finding that we owe additional United States taxes could substantially reduce the value of your investment in our company. You are urged to consult your tax advisor concerning the income tax consequences of purchasing, holding or disposing of ADSs or ordinary shares if we were to be treated as a United States domestic corporation for United States federal income tax purposes. The remainder of this discussion assumes that our company is treated as a non-United States corporation for United States federal income tax purposes.

The discussion below assumes that the representations contained in the deposit agreement are true and that the obligations in the deposit agreement and any related agreement have been and will be complied with in accordance with the terms thereof.

For United States federal income tax purposes, a U.S. Holder of ADSs will be treated as the beneficial owner of the underlying shares represented by the ADSs.

Passive Foreign Investment Company Considerations

A non-United States corporation, such as our company, will be a passive foreign investment company, or PFIC, for United States federal income tax purposes for any taxable year, if either (i) 75% or more of its gross income for such year consists of certain types of passive income or (ii) 50% or more of the value of its assets (determined on the basis of a quarterly average) during such year produce or are held for the production of passive income. For this purpose, cash and assets readily convertible into cash are categorized as a passive asset and the company's unbooked intangibles are taken into account. Passive income is any income that would be foreign personal holding company income under the Code, including dividends, interest, royalties, rents, annuities, net gains from the sale or exchange of property producing such income, net gains from commodity transactions, net foreign currency gains and income from notional principal contracts. We will be treated as owning a proportionate share of the assets and earning a proportionate share of the income of any other corporation in which we own, directly or indirectly, more than 25% (by value) of the stock.

Although the law in this regard is unclear, we treat Qianxiang Tiancheng, Qianjun Technology and Renren Games as being owned by us for United States federal income tax purposes, not only because we exercise effective control over the operation of such entities but also because we are entitled to substantially all of their economic benefits, and, as a result, we consolidate their results of operations in our consolidated financial statements. If it were determined, however, that we were not the owner of the above entities for United States federal income tax purposes, then

we would likely be treated as a PFIC even if we would not otherwise have been treated as a PFIC for that particular year.

Table of Contents

We believe we were a PFIC for the taxable years ending December 31, 2011 and December 31, 2012. Our PFIC status for the current taxable year will not be determinable until after the close of the current taxable year. Because we currently hold, and expect to continue to hold, a substantial amount of cash and other passive assets and, because, as a public company, the value of our assets for this purpose is determined in part by reference to the market prices of our ADSs and outstanding ordinary shares, there can be no assurance that we will not be a PFIC for the current or any future taxable year. Under circumstances where revenues from activities that produce passive income significantly increase relative to our revenues from activities that produce non-passive income or where we determine not to deploy significant amounts of cash for active purposes, our risk of being a PFIC for the particular year may substantially increase.

If we are a PFIC, our ADSs or ordinary shares generally will continue to be treated as shares in a PFIC for all succeeding years during which a U.S. Holder holds our ADSs or ordinary shares, unless we cease to be a PFIC and the U.S. Holder makes a deemed sale election with respect to the ADSs or ordinary shares. If you make a deemed sale election, you will be deemed to have sold the ADSs or ordinary shares you hold at their fair market value as of the last day of the last year during which we were a PFIC (the termination date). Any gain from such deemed sale would be subject to the consequences described below under Passive Foreign Investment Company Rules. You are urged to consult your tax adviser regarding our possible status as a PFIC as well as the benefit of making a deemed sale election.

Dividends

If we are not a PFIC, any cash distributions (including the amount of any PRC tax withheld) paid on our ADSs or ordinary shares out of our current or accumulated earnings and profits, as determined under United States federal income tax principles, will generally be includible in the gross income of a U.S. Holder as dividend income on the day actually or constructively received by the U.S. Holder, in the case of ordinary shares, or by the depository, in the case of ADSs. Because we do not intend to determine our earnings and profits on the basis of United States federal income tax principles, any distribution paid will generally be treated as a dividend for United States federal income tax purposes. A non-corporate U.S. Holder that is the recipient of dividend income generally will be subject to tax on dividend income from a qualified foreign corporation at the lower applicable capital gains rate rather than the marginal tax rates generally applicable to ordinary income provided that certain holding period requirements are met. A non-United States corporation (other than a corporation that is classified as a PFIC for the taxable year in which the dividend is paid or the preceding taxable year) generally will be considered to be a qualified foreign corporation (i) if it is eligible for the benefits of a comprehensive tax treaty with the United States which the Secretary of Treasury of the United States determines is satisfactory for purposes of this provision and which includes an exchange of information program, or (ii) with respect to any dividend it pays on stock (or ADSs in respect of such stock) which is readily tradable on an established securities market in the United States. Our ADSs are listed on the NYSE, which is an established securities market in the United States, and our ADSs are readily tradable. Thus, we believe that dividends we pay on our ADSs will meet the conditions required for the reduced tax rates. Since we do not expect that our ordinary shares will be listed on an established securities market, we do not believe that dividends we pay on our ordinary shares that are not represented by ADSs will meet the conditions required for these reduced tax rates. Dividends received on our ADSs or ordinary shares will not be eligible for the dividend received deduction allowed to corporations.

In the event that we are deemed to be a PRC resident enterprise under the PRC New EIT Law, a U.S. Holder may be subject to PRC withholding taxes on dividends paid on our ADSs or ordinary shares. In such case, we may, however, be eligible for the benefits of the United States-PRC income tax treaty. If we are eligible for such benefits, dividends we pay on our ordinary shares, regardless of whether such shares are represented by our ADSs, would be eligible for the reduced rates of taxation applicable to qualified dividend income, as discussed above.

Dividends generally will be treated as income from foreign sources for United States foreign tax credit purposes and generally will constitute passive category income. A U.S. Holder may be eligible, subject to a number of complex limitations, to claim a foreign tax credit in respect of any foreign withholding taxes imposed on dividends received on our ADSs or ordinary shares. A U.S. Holder who does not elect to claim a foreign tax credit for foreign tax withheld, may instead claim a deduction, for United States federal income tax purposes, in respect of such

Edgar Filing: EMBARCADERO TECHNOLOGIES INC - Form 4

withholdings, but only for a year in which such U.S. Holder elects to do so for all creditable foreign income taxes. The rules governing the foreign tax credit are complex. U.S. Holders are urged to consult their tax advisors regarding the availability of the foreign tax credit under their particular circumstances.

Table of Contents

If we are a PFIC, the rules described above would generally only apply to distributions that were not excess distributions received by a U.S. Holder who does not make a mark-to-market election (described below).

Sale or Other Disposition of ADSs or Ordinary Shares

If we are not a PFIC, a U.S. Holder will generally recognize capital gain or loss upon the sale or other disposition of ADSs or ordinary shares in an amount equal to the difference between the amount realized upon the disposition and the U.S. Holder's adjusted tax basis in such ADSs or ordinary shares. Any capital gain or loss will be long-term if the ADSs or ordinary shares have been held for more than one year and will generally be United States source gain or loss for United States foreign tax credit purposes. Capital gains of non-corporate U.S. Holders derived from capital assets held for more than one year are currently eligible for reduced rates of taxation. In the event that gain from the disposition of the ADSs or ordinary shares is subject to tax in the PRC, such gain may be treated as PRC source gain under the United States-PRC income tax treaty. The deductibility of a capital loss is subject to limitations. U.S. Holders are urged to consult their tax advisors regarding the tax consequences if a foreign withholding tax is imposed on a disposition of our ADSs or ordinary shares, including the availability of the foreign tax credit under their particular circumstances.

Passive Foreign Investment Company Rules

If we are a PFIC for any taxable year during which a U.S. Holder holds our ADSs or ordinary shares, and unless the U.S. Holder makes a mark-to-market election (as described below), the U.S. Holder will generally be subject to special United States federal income tax rules that have a penalizing effect, regardless of whether we remain a PFIC, on (i) any excess distribution that we make to the U.S. Holder (which generally means any distribution paid during a taxable year to a U.S. Holder that is greater than 125% of the average annual distributions paid in the three preceding taxable years or, if shorter, the U.S. Holder's holding period for the ADSs or ordinary shares), and (ii) any gain realized on the sale or other disposition, including a pledge, of ADSs or ordinary shares. Under the PFIC rules the:

- excess distribution or gain will be allocated ratably over the U.S. Holder's holding period for the ADSs or ordinary shares;
- amounts allocated to the current taxable year and any taxable years in the U.S. Holder's holding period prior to the first taxable year in which we are classified as a PFIC, or a pre-PFIC year, will be taxable as ordinary income;
- the amount allocated to each of the other taxable years would be subject to tax at the highest rate of tax in effect for the applicable class of taxpayer for such year;
- and would be increased by an additional tax equal to interest on the resulting tax deemed deferred with respect to each such other taxable year.

Edgar Filing: EMBARCADERO TECHNOLOGIES INC - Form 4

If we are a PFIC for any taxable year during which a U.S. Holder holds our ADSs or ordinary shares and any of our non-United States subsidiaries is also a PFIC, such U.S. Holder would be treated as owning a proportionate amount (by value) of the shares of each such non-United States subsidiary that is a PFIC (each such subsidiary, a lower-tier PFIC) and would be subject to the rules described above on certain distributions by a lower-tier PFIC and a disposition of shares of a lower-tier PFIC even though such U.S. Holder would not receive the proceeds of those distributions or dispositions. U.S. Holders should consult their tax advisors regarding the application of the PFIC rules to any of our subsidiaries.

Table of Contents

As an alternative to the foregoing rules, a U.S. Holder of marketable stock in a PFIC is permitted to make a mark-to-market election with respect to our ADSs, but not our ordinary shares, provided that our ADSs remain listed on the NYSE and are regularly traded. We anticipate that our ADSs should qualify as being regularly traded, but no assurances may be given in this regard. If a U.S. Holder makes a valid mark-to-market election, the U.S. Holder will generally (i) include as ordinary income for each taxable year that we are a PFIC the excess, if any, of the fair market value of ADSs held at the end of the taxable year over the adjusted tax basis of such ADSs and (ii) deduct as an ordinary loss the excess, if any, of the adjusted tax basis of the ADSs over the fair market value of such ADSs held at the end of the taxable year, but only to the extent of the net amount previously included in income as a result of the mark-to-market election. The U.S. Holder's adjusted tax basis in the ADSs would be adjusted to reflect any income or loss resulting from the mark-to-market election. If a U.S. Holder makes a mark-to-market election in respect of a corporation classified as a PFIC and such corporation ceases to be classified as a PFIC, the U.S. Holder will not be required to take into account the gain or loss described above during any period that such corporation is not classified as a PFIC. If a U.S. Holder makes a mark-to-market election, any gain such U.S. Holder recognizes upon the sale or other disposition of our ADSs will be treated as ordinary income and any loss will be treated as ordinary loss, but only to the extent of the net amount previously included in income as a result of the mark-to-market election. In the case of a U.S. Holder who has held ADSs or ordinary shares during any taxable year in respect of which we were a PFIC and continues to hold such ADSs or ordinary shares (or any portion thereof) and has not previously made a mark-to-market election, but who is considering making a mark-to-market election, special tax rules may apply relating to purging the PFIC taint of such ADSs or ordinary shares through the use of a deemed sale election, as discussed above under Passive Foreign Investment Company Considerations.

Because, as a technical matter, a mark-to-market election cannot be made for any lower-tier PFICs that we may own, a U.S. Holder may continue to be subject to the PFIC rules with respect to such U.S. Holder's indirect interest in any investments held by us that are treated as an equity interest in a PFIC for United States federal income tax purposes.

We do not intend to provide information necessary for U.S. Holders to make qualified electing fund elections which, if available, would result in tax treatment different from the general tax treatment for PFICs described above.

If a U.S. Holder owns our ADSs or ordinary shares during any taxable year that we are a PFIC, the U.S. Holder must file an annual IRS Form 8621 or such other form as is required by the United States Treasury Department. Each U.S. Holder is urged to consult its tax advisor concerning the United States federal income tax consequences of purchasing, holding and disposing ADSs or ordinary shares, including the possibility of making a mark-to-market election and the unavailability of the election to treat us as a qualified electing fund.

Information Reporting and Backup Withholding

Dividend payments with respect to the ADSs or ordinary shares and proceeds from the sale, exchange or redemption of our ADSs or ordinary shares may be subject to information reporting to the IRS and possible United States backup withholding currently at a rate of 28%. Backup withholding will not apply, however, to a U.S. Holder who furnishes a correct taxpayer identification number and makes other required certifications, or who is otherwise exempt from backup withholding. U.S. Holders that are required to establish their exempt status generally must provide such certification on IRS Form W-9. U.S. Holders should consult their tax advisors regarding the application of the United States information reporting and backup withholding rules.

Backup withholding is not an additional tax. Amounts withheld as backup withholding may be credited against a U.S. Holder's United States federal income tax liability, and a U.S. Holder generally may obtain a refund of any excess amounts withheld under the backup withholding rules by timely filing the appropriate claim for refund with the IRS and furnishing any required information.

Pursuant to the Hiring Incentives to Restore Employment Act of 2010, individual U.S. Holders and certain entities may be required to submit to the IRS certain information with respect to their beneficial ownership of the ADSs or ordinary shares, if such ADSs or ordinary shares are not held on their behalf by a financial institution. This law also imposes penalties if an individual U.S. Holder is required to submit such information to the IRS and fails to do so.

F. Dividends and Paying Agents

Not applicable.

G. Statement by Experts

Not applicable.

H. Documents on Display

We previously filed with the SEC our registration statement on Form F-1 (Registration No. 333-173548), as amended, including the prospectus contained therein, to register our Class A ordinary shares. We have also filed with the SEC a related registration statement on F-6 (Registration No. 333-173515) to register the ADSs.

Table of Contents

We are subject to the periodic reporting and other informational requirements of the Exchange Act. Under the Exchange Act, we are required to file reports and other information with the SEC. Specifically, we are required to file annually a Form 20-F within four months after the end of each fiscal year, which is December 31. Copies of reports and other information, when so filed, may be inspected without charge and may be obtained at prescribed rates at the public reference facilities maintained by the Securities and Exchange Commission at 100 F Street, N.E., Room 1580, Washington, D.C. 20549. The public may obtain information regarding the Washington, D.C. Public Reference Room by calling the Commission at 1-800-SEC-0330. The SEC also maintains a website at www.sec.gov that contains reports, proxy and information statements, and other information regarding registrants that make electronic filings with the SEC using its EDGAR system. As a foreign private issuer, we are exempt from the rules under the Exchange Act prescribing the furnishing and content of quarterly reports and proxy statements, and officers, directors and principal shareholders are exempt from the reporting and short-swing profit recovery provisions contained in Section 16 of the Exchange Act.

We will furnish Citibank, N.A, the depository of our ADSs, all notices of shareholders' meetings and other reports and communications that are made generally available to our shareholders. The depository will make such notices, reports and communications available to holders of ADSs and, upon our request, will mail to all record holders of ADSs the information contained in any notice of a shareholders' meeting received by the depository from us. We will file our annual report on Form 20-F, including our audited financial statements, with the SEC. Our annual report on Form 20-F can be accessed on the SEC's website as well the investor relations section of our website. Investors may request a hard copy of our annual report, free of charge, by contacting us.

I. Subsidiary Information

Not applicable.

Item 11. Quantitative and Qualitative Disclosures About Market Risk

Foreign Exchange Risk

Substantially all of our revenues and expenses are denominated in RMB. We had a gain of US\$3.8 million on dual currency deposit in 2010, which primarily related to dual currency deposits in U.S. dollars and Japanese yen and reflected the changes in the relative exchange rates between these currencies. We had a gain of US\$2.0 million on dual currency deposit in 2011, which primarily related to conversion into U.S. dollar of the Japanese yen equivalent of US\$198.0 million, which we received upon SOFTBANK CORP.'s exercise in full of all of their remaining warrants to purchase series D preferred shares. We had a loss of US\$1.8 million on foreign currency deposit in 2012, which primarily related to the exchange rate fluctuation of our RMB deposit during the year.

To date, we have not entered into any hedging transactions in an effort to reduce our exposure to foreign currency exchange risk. Although our exposure to foreign exchange risks is generally limited, the value of your investment in our ADSs will be affected by the exchange rate between the U.S. dollar and the RMB because the value of our business is effectively denominated in RMB, while our ADSs are traded in U.S. dollars.

Edgar Filing: EMBARCADERO TECHNOLOGIES INC - Form 4

The value of the RMB against the U.S. dollar and other currencies is affected by, among other things, changes in China's political and economic conditions and China's foreign exchange policies. The conversion of Renminbi into foreign currencies, including U.S. dollars, is based on rates set by the People's Bank of China. The PRC government allowed the Renminbi to appreciate by more than 20% against the U.S. dollar between July 2005 and July 2008. Between July 2008 and June 2010, this appreciation was halted and the exchange rate between the Renminbi and the U.S. dollar remained within a narrow band. As a consequence, the RMB fluctuated significantly during that period against other freely traded currencies, in tandem with the U.S. dollar. Since June 2010, the PRC government has allowed the Renminbi to appreciate slowly against the U.S. dollar again. It is difficult to predict how market forces or PRC or U.S. government policy may impact the exchange rate between the Renminbi and the U.S. dollar in the future.

Table of Contents

There remains significant international pressure on the PRC government to adopt a substantial liberalization of its currency policy, which could result in further appreciation in the value of the RMB against the U.S. dollar.

To the extent that we need to convert U.S. dollars, including U.S. dollars we received from our initial public offering, into RMB for capital expenditures and working capital and other business purposes, appreciation of the RMB against the U.S. dollar would have an adverse effect on the RMB amount we would receive from the conversion. Conversely, if we decide to convert RMB into U.S. dollars for the purpose of making payments for dividends on our ordinary shares or ADSs, strategic acquisitions or investments or other business purposes, appreciation of the U.S. dollar against the RMB would have a negative effect on the U.S. dollar amount available to us. As of December 31, 2012, we had RMB denominated cash balances of US\$30.2 million and U.S. dollar-denominated cash balances of US\$175.8 million. Assuming we had converted the U.S. dollar-denominated cash balance of US\$175.8 million as of December 31, 2012 into RMB at the exchange rate of US\$1.00 for RMB6.2301, the exchange rate set forth in the H.10 statistical release of the Board of Governors of Federal Reserve Bank on December 30, 2012, this cash balance would have been RMB1,095.3 million. Assuming a further 1% appreciation of the RMB against the U.S. dollar, this cash balance would have decreased to RMB1,084.3 million as of December 31, 2012.

Interest Risk

Our exposure to interest rate risk primarily relates to the interest income generated by excess cash, which is mostly held in interest-bearing bank deposits. Interest-earning instruments carry a degree of interest rate risk. We have not been exposed to, nor do we anticipate being exposed to, material risks due to changes in market interest rates. However, our future interest income may fall short of expectations due to changes in market interest rates.

Inflation

Since our inception, inflation in China has not materially impacted our results of operations. According to the National Bureau of Statistics of China, the year-over-year percent changes in the consumer price index for December 2010, 2011 and 2012 were increases of 4.6%, 4.1% and 2.5%, respectively. Although we have not been materially affected by inflation in the past, we may be affected if China experiences higher rates of inflation in the future.

Item 12. Description of Securities Other than Equity Securities

A. Debt Securities

Not applicable.

B. Warrants and Rights

Not applicable.

C. Other Securities

Not applicable.

D. American Depositary Shares**Fees and Charges Our ADS Holders May Have to Pay**

Citibank, N.A., is the depository of our ADS program. Set forth below is a summary of fees holders of our ADSs may be required to pay for various services the depository may provide:

Service	Fee
Issuance of ADSs	Up to US\$0.05 per ADS issued
Cancellation of ADSs	Up to US\$0.05 per ADS canceled
Distribution of cash dividends or other cash distributions	Up to US\$0.05 per ADS held
Distribution of ADSs pursuant to stock dividends, free stock distributions or exercise of rights	Up to US\$0.05 per ADS held
Distribution of securities other than ADSs or rights to purchase additional ADSs	Up to US\$0.05 per ADS held
Depository services	Up to US\$0.05 per ADS held on the applicable record date(s) established by the depository
Transfer of ADRs	US\$1.50 per certificate presented for transfer

Table of Contents

As an ADS holder you will also be responsible to pay certain fees and expenses incurred by the depositary and certain taxes and governmental charges such as:

- fees for the transfer and registration of Class A ordinary shares charged by the registrar and transfer agent for the Class A ordinary shares in the Cayman Islands (i.e., upon deposit and withdrawal of Class A ordinary shares);
- expenses incurred for converting foreign currency into U.S. dollars;
- expenses for cable, telex and fax transmissions and for delivery of securities;
- taxes and duties upon the transfer of securities (i.e., when Class A ordinary shares are deposited or withdrawn from deposit); and
- fees and expenses incurred in connection with the delivery or servicing of Class A ordinary shares on deposit.

Depositary fees payable upon the issuance and cancellation of ADSs are typically paid to the depositary by the brokers (on behalf of their clients) receiving the newly issued ADSs from the depositary and by the brokers (on behalf of their clients) delivering the ADSs to the depositary for cancellation. The brokers in turn charge these fees to their clients. Depositary fees payable in connection with distributions of cash or securities to ADS holders and the depositary services fee are charged by the depositary to the holders of record of ADSs as of the applicable ADS record date.

The depositary fees payable for cash distributions are generally deducted from the cash being distributed. In the case of distributions other than cash (such as stock dividends and rights distributions), the depositary charges the applicable fee to the ADS record date holders concurrent with the distribution. In the case of ADSs registered in the name of the investor (whether certificated or uncertificated in direct registration), the depositary sends invoices to the applicable record date ADS holders. In the case of ADSs held in brokerage and custodian accounts (via DTC), the depositary generally collects its fees through the systems provided by DTC (whose nominee is the registered holder of the ADSs held in DTC) from the brokers and custodians holding ADSs in their DTC accounts. The brokers and custodians who hold their clients' ADSs in DTC accounts in turn charge their clients' accounts the amount of the fees paid to the depositary.

The fees and charges ADS holders may be required to pay may vary over time and may be changed by us and by the depositary. ADS holders will receive prior notice of such changes.

Fees and Other Payments Made by the Depositary to Us

The depository has agreed to reimburse us for certain expenses we incur that are related to establishment and maintenance of the ADS program, including investor relations expenses and exchange application and listing fees. There are limits on the amount of expenses for which the depository will reimburse us, but the amount of reimbursement available to us is not related to the amounts of fees the depository collects from investors. In 2011 and 2012, we received approximately US\$1.5 million and US\$2.5 million, respectively, net of applicable withholding taxes in the U.S., from the depository as reimbursement for our expenses incurred in connection with the establishment and maintenance of the ADS program.

Table of Contents

PART II

Item 13. Defaults, Dividend Arrearages and Delinquencies

None.

Item 14. Material Modifications to the Rights of Security Holders and Use of Proceeds

Material Modifications to the Rights of Security Holders

See Item 10. Additional Information Ordinary Shares for a description of the rights of securities holders, which remain unchanged.

Use of Proceeds

The following Use of Proceeds information relates to the registration statement on Form F-1, as amended (File Number 333-173548) (the F-1 Registration Statement) in relation to (i) our initial public offering of 42,898,711 ADSs representing 128,696,133 Class A ordinary shares, and the underwriters' full exercise of their option to purchase from us an additional 7,965,000 ADSs representing 23,895,000 Class A ordinary shares, at an initial offering price of US\$14.00 per ADS, and (ii) an aggregate of 23,571,426 Class A ordinary shares which we sold in a private placement (the concurrent private placement) at a price of US\$4.67 per Class A ordinary share to a group of unrelated third party investors consisting of entities affiliated with Alibaba Group, China Media Capital and CITIC Securities concurrently with, and subject to, the completion of our initial public offering. Our initial public offering and the concurrent private placement closed in May 2011. Morgan Stanley & Co. International plc, Deutsche Bank Securities Inc. and Credit Suisse Securities (USA) LLC were the representatives of the underwriters for our initial public offering.

We received net proceeds of approximately US\$777 million from our initial public offering and the concurrent private placement. For the period from May 4, 2011, the date the F-1 Registration Statement was declared effective by the SEC, to December 31, 2012, we used net proceeds from our initial public offering and the concurrent private placement primarily as follows:

- US\$79.8 million in the acquisition of 56.com;
- US\$26.6 million for a long-term investment in Mapbar Technology Limited;

Explanation of Responses:

- US\$20.0 million for a long-term investment in Japan Macro Opportunities Offshore Partners, LP;
- US\$49.0 million for an equity investment in Social Finance, Inc.;
- US\$101.8 million for share repurchases;
- US\$15.9 million as partial payment for a property purchased in Shanghai;
- US\$53.4 million for investments in marketable securities of two publicly-listed companies; and
- US\$11.1 million used in operating activities during 2012.

Item 15. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

Our management, with the participation of our chief executive officer and chief financial officer, has performed an evaluation of the effectiveness of our disclosure controls and procedures (as defined in Rule 13a-15(e) under the Exchange Act) as of the end of the period covered by this report, as required by Rule 13a-15(b) under the Exchange Act. Based upon this evaluation, our management, with the participation of our chief executive officer and chief financial officer, has concluded that, as of the end of the period covered by this annual report, our disclosure controls and procedures were effective in ensuring that the 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 by the SEC's rules and forms, and that the information required to be disclosed by us in the reports that we file or submit under the Exchange Act is accumulated and communicated to our management, including our chief executive officer and chief financial officer, as appropriate, to allow timely decisions regarding required disclosure.

Table of Contents

Management's Annual Report on Internal Control over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act, for our company. Internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of consolidated financial statements for external purposes in accordance with generally accepted accounting principles, and includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of a company's assets, (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that a company's receipts and expenditures are being made only in accordance with authorizations of a company's management and directors, and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of a company's assets that could have a material effect on the consolidated financial statements.

Due to its inherent limitations, a system of internal control over financial reporting can provide only reasonable assurance with respect to consolidated financial statement preparation and presentation, and may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies and procedures may deteriorate.

As required by Section 404 of the Sarbanes-Oxley Act and related rules as promulgated by the SEC, our management assessed the effectiveness of our company's internal control over financial reporting as of December 31, 2012 using criteria established in Internal Control - Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission. Based on this evaluation, our management has concluded that our company's internal control over financial reporting was effective as of December 31, 2012.

Our independent registered public accounting firm, Deloitte Touche Tohmatsu Certified Public Accountants LLP, has issued an attestation report on our internal control over financial reporting.

At the direction of the government of the PRC in accordance with the Scheme for the Localization Restructuring of Chinese-Foreign Cooperative Accounting firms, Deloitte Touche Tohmatsu CPA Limited has restructured to a new partnership and changed its name to Deloitte Touche Tohmatsu Certified Public Accountants LLP, effective from January 1, 2013. Deloitte Touche Tohmatsu Certified Public Accountants LLP has succeeded Deloitte Touche Tohmatsu CPA Limited for all purposes and assumed all of the obligations and rights of Deloitte Touche Tohmatsu CPA Limited with effect from January 1, 2013. Deloitte Touche Tohmatsu CPA Limited and Deloitte Touche Tohmatsu Certified Public Accountants LLP are hereinafter referred to as Deloitte Touche Tohmatsu.

Report of Independent Registered Public Accounting Firm

To the Board of Directors and Shareholders of Renren Inc.

Edgar Filing: EMBARCADERO TECHNOLOGIES INC - Form 4

We have audited the internal control over financial reporting of Renren Inc., its subsidiaries and its variable interest entities (collectively the Group) as of December 31, 2012, based on the criteria established in Internal Control Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission. The Group s management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management s Annual Report on Internal Control Over Financial Reporting. Our responsibility is to express an opinion on the Group s internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

Table of Contents

A company's internal control over financial reporting is a process designed by, or under the supervision of, the company's principal executive and principal financial officers, or persons performing similar functions, and effected by the company's board of directors, management, and other personnel to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of the inherent limitations of internal control over financial reporting, including the possibility of collusion or improper management override of controls, material misstatements due to error or fraud may not be prevented or detected on a timely basis. Also, projections of any evaluation of the effectiveness of the internal control over financial reporting to future periods are subject to the risk that the controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, the Group maintained, in all material respects, effective internal control over financial reporting as of December 31, 2012, based on the criteria established in Internal Control - Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated financial statements as of and for the year ended December 31, 2012 of the Group and our report dated April 23, 2013 expressed an unqualified opinion on those financial statements and included an explanatory paragraph regarding the Group's adoption of the authoritative guidance on the presentation of comprehensive income.

Deloitte Touche Tohmatsu Certified Public Accountants LLP

Beijing, the People's Republic of China

April 23, 2013

Changes in Internal Control over Financial Reporting

We previously disclosed in our Form 20-F for the year ended December 31, 2011 that we and our independent registered public accounting firm identified one material weakness and one significant deficiency, each as defined in the U.S. Public Company Accounting Oversight Board Standard AU Section 325, Communications About Control Deficiencies in an Audit of Financial Statements, or AU325, in our internal control over financial reporting as of December 31, 2011. As defined in AU325, a material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of the company's annual or interim financial statements will not be prevented or detected on a timely basis, and a significant deficiency is a deficiency, or a combination of deficiencies, in internal control over financial reporting that is less severe than a material weakness, yet important enough to merit attention by those responsible for oversight of our financial reporting.

Explanation of Responses:

The material weakness identified related to insufficient accounting personnel with appropriate U.S. GAAP knowledge. The significant deficiency identified was related to not having a formal policy for investment of our surplus cash and the management of our treasury functions. In response to the material weakness and significant deficiency identified in our 2011 annual report on Form 20-F, and in cooperation with our board of directors and under the supervision of our board's audit committee, we have actively engaged during 2012 in a number of actions to remediate the material weakness and significant deficiency described above, including:

Table of Contents

- we implemented regular and continuous U.S. GAAP accounting and SEC financial reporting training programs for our existing accounting and reporting personnel, including both junior and senior personnel;
- we recruited two additional qualified accounting personnel, with relevant experience in U.S. GAAP accounting and reporting and auditing, to be responsible for SEC and U.S. GAAP reporting;
- we have subscribed to a U.S. GAAP accounting and SEC reporting services tool from an external service provide; and
- we established formal treasury and investment policies.

As of December 31, 2012, we believe we have sufficient accounting personnel with appropriate U.S. GAAP knowledge to fulfill our reporting obligations pursuant to U.S. GAAP requirements. Our management also determined that, as of December 31, 2012, the applicable controls were effectively designed and operating so as to enable our management to conclude that the aforementioned material weakness and significant deficiency had been remediated.

However, during the process of preparing our consolidated financial statements included in this annual report, a significant deficiency was identified related to the preparation and disclosure of segment reporting information as of December 31, 2012. We intend to take actions to remediate such deficiency.

Except for the remedial measures described and the significant deficiency identified above, there were no other significant changes in our internal control over financial reporting during the year ended December 31, 2012 that have materially affected or are reasonably likely to materially affect our internal control over financial reporting.

Limitations on the Effectiveness of Controls

Management, including our chief executive officer and our chief financial officer, does not expect that our disclosure controls and procedures or internal control over financial reporting will prevent or detect all errors and all fraud. A control system cannot provide absolute assurance due to its inherent limitations; it is a process that involves human diligence and compliance and is subject to lapses in judgment and breakdowns resulting from human failures. A control system also can be circumvented by collusion or improper management override. Further, the design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Because of such limitations, disclosure controls and procedures and internal control over financial reporting cannot prevent or detect all misstatements, whether unintentional errors or fraud. However, these inherent limitations are known features of the financial reporting process, therefore, it is possible to design into the process safeguards to reduce, though not eliminate, this risk.

Item 16. Reserved

Item 16A. Audit Committee Financial Expert

Our board of directors has determined that Mr. David Chao, an independent director (under the standards set forth in Section 303A of the Corporate Governance Rules of the New York Stock Exchange and Rule 10A-3 under the Exchange Act) qualifies as an audit committee financial expert.

Item 16B. Code of Ethics

Our board has adopted a code of business conduct and ethics that provides that our directors and officers are expected to avoid any action, position or interest that conflicts with the interests of our company or gives the appearance of a conflict. Directors and officers have an obligation under our code of business conduct and ethics to advance our company's interests when the opportunity to do so arises. We have posted a copy of our code of business conduct and ethics on our website at <http://www.renren-inc.com>.

Item 16C. Principal Accountant Fees and Services

The following table sets forth the aggregate fees by categories specified below in connection with certain professional services rendered by Deloitte Touche Tohmatsu Certified Public Accountants LLP, our principal external auditors, for the periods indicated.

Table of Contents

	For the Year Ended December 31,	
	2011	2012
	(In thousands of US\$)	
Audit fees (1)	735.1	1,105.2
Audit-related fees (2)	534.4	
Tax fees(3)	23.1	114.4
All other fees(4)	93.0	

(1) Audit fees means the aggregate fees billed or payable for professional services rendered by our independent auditors in connection with the audit of our consolidated financial statements or the review of our interim consolidated financial statements required for statutory or regulatory filings.

(2) Audit-related fees means the aggregate fees billed or payable for professional services rendered by our independent auditors in connection with the review of our interim consolidated financial statements not required for statutory or regulatory filings.

(3) Tax fees means the aggregate fees billed or payable for tax compliance services, transfer pricing and requests for rulings or technical advice from taxing authorities and tax planning services.

(4) All other fees means the aggregate fees billed for all other services provided by Deloitte Touche Tohmatsu Certified Public Accountants LLP, other than those services covered in footnotes (1) to (3) above.

All audit and non-audit services provided by our independent auditors must be pre-approved by our audit committee.

Item 16D. Exemptions from the Listing Standards for Audit Committees

Not applicable.

Item 16E. Purchases of Equity Securities by the Issuer and Affiliated Purchasers

On September 29, 2011, our board of directors approved a share repurchase program, whereby our company was authorized to repurchase of up to US\$150.0 million of our ADSs during the period from September 29, 2011 through September 28, 2012. The share repurchase program was publicly announced on September 29, 2011. By the completion of the share repurchase program on September 28, 2012, our company purchased a total of 24,173,666 ADSs at an aggregate consideration of US\$101.8 million.

Edgar Filing: EMBARCADERO TECHNOLOGIES INC - Form 4

The following table sets forth information about our repurchases made in the year 2012 under the share repurchase program described in the paragraph above.

Period	Total Number of ADSs Purchased	Average Price Paid per ADS (US\$)	Total Number of ADSs Purchased as Part of Publicly Announced Plans or Programs	Maximum Dollar Value of ADSs that May Yet be Purchased Under the Plans or Programs (US\$)
Month #1 (December 29, 2011 - January 28, 2012)	4,220,738	\$ 3.56	4,220,738	\$ 117,922,034
Month #2 (January 29, 2012 - February 27, 2012)				\$ 117,922,034
Month #3 (February 28, 2012 - March 28, 2012)				\$ 117,922,034
Month #4 (March 29, 2012 - April 28, 2012)				\$ 117,922,034
Month #5 (April 29, 2012 - May 28, 2012)				\$ 117,922,034
Month #6 (May 29, 2012 - June 28, 2012)	3,000,000	\$ 4.87	3,000,000	\$ 103,306,514
Month #7 (June 29, 2012 - July 28, 2012)	7,235,000	\$ 4.31	7,235,000	\$ 72,088,180
Month #8 (July 29, 2012 - August 28, 2012)	4,000,000	\$ 3.93	4,000,000	\$ 56,354,293
Month #9 (August 29, 2012 - September 28, 2012)	2,000,000	\$ 4.08	2,000,000	\$ 48,199,630
Month #10 (September 29, 2012 - October 29, 2012)				\$ 48,199,630
Month #11 (October 30, 2012 - November 29, 2012)				\$ 48,199,630
Month #12 (November 30, 2012 - December 31, 2012)				\$ 48,199,630
Total	20,455,738	\$ 4.14	20,455,738	

Table of Contents

On December 26, 2012, we announced that our board of directors authorized the renewal of our company's share repurchase program dated September 29, 2011 for another 12 months from January 1, 2013 to December 31, 2013. During this 12-month period, our company is authorized, but not obligated, to repurchase up to US\$48.2 million of our ADSs, which represents the remaining balance of our previously announced share repurchase plan that ended on September 28, 2012. As of April 23, 2013, we had repurchased 2,703,921 ADSs under the renewal of our share repurchase program.

In addition, during the course of the administration of our equity incentive plans, we have, from time to time, canceled or repurchased restricted shares or other securities held by employees or other participants of our equity incentive plans.

Item 16F. Change in Registrant's Certifying Accountant

Not applicable.

Item 16G. Corporate Governance

Section 303A.12(a) of the NYSE Listed Company Manual requires each listed company's chief executive officer to certify to the NYSE each year that he or she is not aware of any violation by the company of NYSE corporate governance listing standards. We are a Cayman Islands company, and our chief executive officer is not required under applicable Cayman Islands law to make such a certification. Pursuant to the exception granted to foreign private issuers under Section 303A.00 of the NYSE Listed Company Manual, we have followed our home country practice in this regard and have not in the past submitted the certification set forth in Section 303A.12(a) of the NYSE Listed Company Manual.

Other than the requirements discussed above, there are no significant differences between our corporate governance practices and those followed by domestic listed companies as required under the NYSE Listed Company Manual.

Item 16H. Mine Safety Disclosure

Not applicable.

Table of Contents

PART III

Item 17. Financial Statements

We have elected to provide financial statements pursuant to Item 18.

Item 18. Financial Statements

The consolidated financial statements of Renren Inc. and its subsidiaries and consolidated affiliated entities are included at the end of this annual report.

Item 19. Exhibits

Exhibit Number	Description of Document
1.1	Amended and Restated Memorandum and Articles of Association of the Registrant (incorporated by reference to Exhibit 3.2 to our Registration Statement on Form F-1 (file no. 333-173548), as amended, initially filed with the SEC on April 15, 2011).
2.1	Specimen American depositary receipt of the Registrant (incorporated by reference to Exhibit 4.1 to our Registration Statement on Form F-1 (file no. 333-173548), as amended, initially filed with the SEC on April 15, 2011).
2.2	Specimen Class A ordinary share certificate of the Registrant (incorporated by reference to Exhibit 4.2 to our Registration Statement on Form F-1 (file no. 333-173548), as amended, initially filed with the SEC on April 15, 2011).
2.3	Deposit Agreement, dated as of May 4, 2011, by and among the Registrant, Citibank, N.A., as depositary, and the holders of the American Depositary Receipts (incorporated by reference to Exhibit 4.3 to our Registration Statement on Form S-8 (file no. 333-177366), filed with the SEC on October 18, 2011).
2.4	Amended and Restated Investors' Rights Agreement between the Registrant and other parties therein, dated as of April 4, 2008, as amended (incorporated by reference to Exhibit 4.6 to our Registration Statement on Form F-1 (file no. 333-173548), as amended, initially filed with the SEC on April 15, 2011).
2.5	Form of Registration Rights Agreement between the Registrant and other parties therein (incorporated by reference to Exhibit 10.21 to our Registration Statement on Form F-1 (file no. 333-173548), as amended, initially filed with the SEC on April 15, 2011).
4.1	2006 Equity Incentive Plan (incorporated by reference to Exhibit 10.1 to our Registration Statement on Form F-1 (file no. 333-173548), as amended, initially filed with the SEC on April 15, 2011).
4.2	

Edgar Filing: EMBARCADERO TECHNOLOGIES INC - Form 4

2008 Equity Incentive Plan (incorporated by reference to Exhibit 10.2 to our Registration Statement on Form F-1 (file no. 333-173548), as amended, initially filed with the SEC on April 15, 2011).

4.3 2009 Equity Incentive Plan (incorporated by reference to Exhibit 10.3 to our Registration Statement on Form F-1 (file no. 333-173548), as amended, initially filed with the SEC on April 15, 2011).

4.4 2011 Share Incentive Plan (incorporated by reference to Exhibit 10.4 to our Registration Statement on Form F-1 (file no. 333-173548), as amended, initially filed with the SEC on April 15, 2011).

4.5 Form of Indemnification Agreement between the Registrant and its directors and officers (incorporated by reference to Exhibit 10.5 to our Registration Statement on Form F-1 (file no. 333-173548), as amended, initially filed with the SEC on April 15, 2011).

4.6 Form of Employment Agreement between the Registrant and the officers of the Registrant (incorporated by reference to Exhibit 10.6 to our Registration Statement on Form F-1 (file no. 333-173548), as amended, initially filed with the SEC on April 15, 2011).

Edgar Filing: EMBARCADERO TECHNOLOGIES INC - Form 4

Table of Contents

Exhibit Number	Description of Document
4.7	Business Operations Agreement, dated as of December 23, 2010, among Qianxiang Shiji, Qianxiang Tiancheng and the shareholders of Qianxiang Tiancheng (incorporated by reference to Exhibit 10.7 to our Registration Statement on Form F-1 (file no. 333-173548), as amended, initially filed with the SEC on April 15, 2011).
4.8	Amended and Restated Equity Option Agreements, dated as of December 23, 2010, among Qianxiang Shiji and the shareholders of Qianxiang Tiancheng (incorporated by reference to Exhibit 10.8 to our Registration Statement on Form F-1 (file no. 333-173548), as amended, initially filed with the SEC on April 15, 2011).
4.9	Amended and Restated Equity Interest Pledge Agreements, dated as of December 23, 2010, among Qianxiang Shiji and the shareholders of Qianxiang Tiancheng (incorporated by reference to Exhibit 10.9 to our Registration Statement on Form F-1 (file no. 333-173548), as amended, initially filed with the SEC on April 15, 2011).
4.10	Power of Attorney, dated as of December 23, 2010, by the shareholders of Qianxiang Tiancheng (incorporated by reference to Exhibit 10.10 to our Registration Statement on Form F-1 (file no. 333-173548), as amended, initially filed with the SEC on April 15, 2011).
4.11	Spousal Consents, dated as of December 23, 2010, by the shareholders of Qianxiang Tiancheng (incorporated by reference to Exhibit 10.11 to our Registration Statement on Form F-1 (file no. 333-173548), as amended, initially filed with the SEC on April 15, 2011).
4.12	Amended and Restated Loan Agreements, dated as of December 23, 2010, among Qianxiang Shiji and the shareholders of Qianxiang Tiancheng (incorporated by reference to Exhibit 10.12 to our Registration Statement on Form F-1 (file no. 333-173548), as amended, initially filed with the SEC on April 15, 2011).
4.13	Amended and Restated Exclusive Technical Service Agreement, dated as of December 23, 2010, among Qianxiang Shiji and Qianxiang Tiancheng (incorporated by reference to Exhibit 10.13 to our Registration Statement on Form F-1 (file no. 333-173548), as amended, initially filed with the SEC on April 15, 2011).
4.14	Amended and Restated Intellectual Property Right License Agreement, dated as of December 23, 2010, among Qianxiang Shiji and Qianxiang Tiancheng (incorporated by reference to Exhibit 10.14 to our Registration Statement on Form F-1 (file no. 333-173548), as amended, initially filed with the SEC on April 15, 2011).
4.15	Share Purchase Agreement, dated as of December 30, 2010, among Renren Inc. and Oak Pacific Holdings (incorporated by reference to Exhibit 10.15 to our Registration Statement on Form F-1 (file no. 333-173548), as amended, initially filed with the SEC on April 15, 2011).
4.16	Form of Subscription Agreement, dated as of April 15, 2011, among the Registrant and the parties named therein (incorporated by reference to Exhibit 10.20 to our Registration Statement on Form F-1 (file no. 333-173548), as amended, initially filed with the SEC on April 15, 2011).
4.17	Merger Agreement, dated September 27, 2011, by and among the Registrant, Sheng J ian Bao Limited, Wole Inc. and Shareholder Representative Services LLC (incorporated by reference to Exhibit 4.21 to our annual report on Form 20-F (file no. 001-35147), filed with the SEC on April 27, 2012).
4.18	Amended and Restated Loan Agreement, dated October 26, 2011, between Beijing Wole Information Technology Co., Ltd. and Liang Sheng (incorporated by reference to Exhibit 4.22 to our annual report on Form 20-F (file no. 001-35147), filed with the SEC on April 27, 2012).
4.19	Amended and Restated Loan Agreement, dated October 26, 2011, between Beijing Wole Information Technology Co., Ltd. and Zhou J uan (incorporated by reference to Exhibit 4.23 to our annual report on Form 20-F (file no. 001-35147), filed with the SEC on April 27, 2012).
4.20	Business Operations Agreement, dated October 26, 2011, among Beijing Wole Information Technology Co., Ltd., Guangzhou Qianj un Internet Technology Co., Ltd., Zhou J uan and Liang Sheng (incorporated by reference to Exhibit 4.24 to our annual report on Form 20-F (file no. 001-35147), filed with the SEC on April 27, 2012).

4.21 Power of Attorney, dated October 26, 2011, by Liang Sheng (incorporated by reference to Exhibit 4.25 to our annual report on Form 20-F (file no. 001-35147), filed with the SEC on April 27, 2012)

Edgar Filing: EMBARCADERO TECHNOLOGIES INC - Form 4

Table of Contents

Exhibit Number	Description of Document
4.22	Power of Attorney, dated October 26, 2011, by Zhou J uan (incorporated by reference to Exhibit 4.26 to our annual report on Form 20-F (file no. 001-35147), filed with the SEC on April 27, 2012)
4.23	Spousal Consent issued by Liang J un, as the lawful spouse of Zhou J uan, and Chen Yusi, as the lawful spouse of Liang Sheng, both dated October 26, 2011 (incorporated by reference to Exhibit 4.27 to our annual report on Form 20-F (file no. 001-35147), filed with the SEC on April 27, 2012)
4.24	Amended and Restated Exclusive Technical Service Agreement, dated October 26, 2011, between Beijing Wole Information Technology Co., Ltd. and Guangzhou Qianj un Internet Technology Co., Ltd. (incorporated by reference to Exhibit 4.28 to our annual report on Form 20-F (file no. 001-35147), filed with the SEC on April 27, 2012)
4.25	Translation of the Amended and Restated Intellectual Property Right License Agreement dated October 26, 2011 between Beijing Wole Information Technology Co., Ltd. and Guangzhou Qianj un Internet Technology Co., Ltd. (incorporated by reference to Exhibit 4.29 to our annual report on Form 20-F (file no. 001-35147), filed with the SEC on April 27, 2012)
4.26	Amended and Restated Equity Interest Pledge Agreement, dated October 26, 2011, between Beijing Wole Information Technology Co., Ltd. and Liang Sheng (incorporated by reference to Exhibit 4.30 to our annual report on Form 20-F (file no. 001-35147), filed with the SEC on April 27, 2012)
4.27	Amended and Restated Equity Interest Pledge Agreement, dated October 26, 2011, between Beijing Wole Information Technology Co., Ltd. and Zhou J uan (incorporated by reference to Exhibit 4.31 to our annual report on Form 20-F (file no. 001-35147), filed with the SEC on April 27, 2012)
4.28*	Loan Agreement, dated November 30, 2012, between Renren Games Network Technology Development (Shanghai) Co., Ltd. and Chuan He
4.29*	Loan Agreement, dated November 30, 2012, between Renren Games Network Technology Development (Shanghai) Co., Ltd. and James Jian Liu
4.30*	Business Operations Agreement, dated November 30, 2012, among Renren Games Network Technology Development (Shanghai) Co., Ltd., Shanghai Renren Games Technology Development Co., Ltd., Chuan He and James Jian Liu
4.31*	Proxy Agreement and Power of Attorney, dated November 30, 2012, among Renren Games Network Technology Development (Shanghai) Co., Ltd., Shanghai Renren Games Technology Decelopment Co., Ltd., Chuan He and James Jian Liu
4.32*	Spousal Consent issued by J ianghao Leng, as the lawful spouse of Chuan He, and Yan Chen, as the lawful spouse of J ames Jian Liu, both dated November 30, 2012
4.33*	Exclusive Technology Support and Technology Service Agreement, dated November 30, 2012, between Renren Games Network Technology Development (Shanghai) Co., Ltd. and Shanghai Renren Games Technology Decelopment Co., Ltd.
4.34*	Intellectual Property Right License Agreement, dated November 30, 2012, between Renren Games Network Technology Development (Shanghai) Co., Ltd. and Shanghai Renren Games Technology Decelopment Co., Ltd.
4.35*	Equity Interest Pledge Agreement, dated November 30, 2012, between Renren Games Network Technology Development (Shanghai) Co., Ltd. and Chuan He
4.36*	Equity Interest Pledge Agreement, dated November 30, 2012, between Renren Games Network Technology Development (Shanghai) Co., Ltd. and James Jian Liu
4.37*	

Edgar Filing: EMBARCADERO TECHNOLOGIES INC - Form 4

Equity Option Agreement, dated November 30, 2012, between Renren Games Network Technology Development (Shanghai) Co., Ltd. and Chuan He

4.38* Equity Option Agreement, dated November 30, 2012, between Renren Games Network Technology Development (Shanghai) Co., Ltd. and James Jian Liu

4.39* Link224 Inc. 2013 Share Incentive Plan

8.1* Subsidiaries of the Registrant

Table of Contents

Exhibit Number	Description of Document
11.1	Code of Business Conduct and Ethics of the Registrant (incorporated by reference to Exhibit 99.1 to our Registration Statement on Form F-1 (file no. 333-173548), as amended, initially filed with the SEC on April 15, 2011).
12.1*	Certification by Principal Executive Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
12.2*	Certification by Principal Financial Officer Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
13.1**	Certification by Principal Executive Officer Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
13.2**	Certification by Principal Financial Officer Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
15.1*	Consent of Deloitte Touche Tohmatsu Certified Public Accountants LLP
15.2*	Consent of TransAsia Lawyers
15.3*	Consent of Maples and Calder
101.INS***	XBRL Instance Document
101.SCH***	XBRL Taxonomy Extension Schema Document
101.CAL***	XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF***	XBRL Taxonomy Extension Definition Linkbase Document
101.LAB***	XBRL Taxonomy Extension Label Linkbase Document
101.PRE***	XBRL Taxonomy Extension Presentation Linkbase Document

* Filed herewith.

** Furnished herewith.

*** XBRL (Extensible Business Reporting Language) information is furnished and not filed or a part of a registration statement or prospectus for purposes of Sections 11 or 12 of the Securities Act of 1933, as amended, is deemed not filed for purposes of Section 18 of the Exchange Act of 1934, as amended, and otherwise is not subject to liability under these sections.

Table of Contents

SIGNATURES

The registrant hereby certifies that it meets all of the requirements for filing its annual report on Form 20-F and that it has duly caused and authorized the undersigned to sign this annual report on its behalf.

Renren Inc.

By:	/s/ Joseph Chen	
	Name:	Joseph Chen
	Title:	Chairman of the Board of Directors and Chief Executive Officer

Date: April 23, 2013

Table of Contents

RENREN INC.

Report and Consolidated Financial Statements

For the years ended December 31, 2010, 2011 and 2012

Table of Contents

INDEX TO CONSOLIDATED FINANCIAL STATEMENTS
FOR THE YEARS ENDED DECEMBER 31, 2010, 2011 AND 2012

CONTENTS	PAGE(S)
<u>REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM</u>	F-2
<u>CONSOLIDATED BALANCE SHEETS AS OF DECEMBER 31, 2011 AND 2012</u>	F-3
<u>CONSOLIDATED STATEMENTS OF OPERATIONS FOR THE YEARS ENDED DECEMBER 31, 2010, 2011 AND 2012</u>	F-5
<u>CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS) FOR THE YEARS ENDED DECEMBER 31, 2010, 2011 AND 2012</u>	F-7
<u>CONSOLIDATED STATEMENTS OF CHANGES IN EQUITY (DEFICIT) FOR THE YEARS ENDED DECEMBER 31, 2010, 2011 AND 2012</u>	F-8
<u>CONSOLIDATED STATEMENTS OF CASH FLOWS FOR THE YEARS ENDED DECEMBER 31, 2010, 2011 AND 2012</u>	F-9
<u>NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS FOR THE YEARS ENDED DECEMBER 31, 2010, 2011 AND 2012</u>	F-11

Table of Contents

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

TO THE BOARD OF DIRECTORS AND SHAREHOLDERS OF RENREN INC.

We have audited the accompanying consolidated balance sheets of Renren Inc., and its subsidiaries and variable interest entities (collectively the Group) as of December 31, 2011 and 2012, and the related consolidated statements of operations, comprehensive income (loss), changes in equity (deficit) and cash flows for each of the three years in the period ended December 31, 2012. These consolidated financial statements are the responsibility of the Group's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the consolidated financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall consolidated financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, such consolidated financial statements present fairly, in all material respects, the financial position of the Group as of December 31, 2011 and 2012, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2012, in conformity with accounting principles generally accepted in the United States of America.

As discussed in Note 2, such statements have been adjusted for the retrospective application of the authoritative guidance regarding the presentation of comprehensive income, which was adopted by the Group on January 1, 2012.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the Group's internal control over financial reporting as of December 31, 2012, based on the criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated April 23, 2013 expressed an unqualified opinion on the Group's internal control over financial reporting.

/s/ Deloitte Touche Tohmatsu Certified Public Accountants LLP
Beijing, the People's Republic of China
April 23, 2013

Table of Contents**RENREN INC.****CONSOLIDATED BALANCE SHEETS****(In thousands of US dollars, except share data and per share data, or otherwise noted)**

	As of December 31,	
	2011	2012
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 284,643	\$ 207,438
Term deposits	702,680	550,000
Short-term investments	53,393	147,045
Accounts and notes receivable (net of allowances of \$224 and \$556 as of December 31, 2011 and 2012, respectively)	14,911	18,402
Prepaid expenses and other current assets	59,389	29,591
Amounts due from related parties	573	258
Deferred tax assets-current	1,381	
Total current assets	1,116,970	952,734
Equipment, net	22,301	32,355
Intangible assets, net	28,086	26,820
Goodwill	58,998	59,673
Long-term investments	50,300	107,597
Other non-current assets	1,353	22,634
TOTAL ASSETS	\$ 1,278,008	\$ 1,201,813
LIABILITIES AND EQUITY		
Current liabilities:		
Accounts payable (including accounts payable of the consolidated VIEs without recourse to Renren Inc. of \$19,522 and \$36,454 as of December 31, 2011 and 2012, respectively)	\$ 20,381	\$ 36,743
Accrued expenses and other payables (including accrued expenses and other payables of the consolidated VIEs without recourse to Renren Inc. of \$24,999 and \$36,892 as of December 31, 2011 and 2012, respectively)	31,108	41,608
Amount due to a related party (including amount due to a related party of the consolidated VIEs without recourse to Renren Inc. of \$51 and \$77 as of December 31, 2011 and 2012, respectively)	51	77
Deferred revenue and advance from customers (including deferred revenue and advance from customers of the consolidated VIEs without recourse to Renren Inc. of \$6,632 and \$10,419 as of December 31, 2011 and 2012, respectively)	7,441	10,668
Income tax payable (including income tax payable of the consolidated VIEs without recourse to Renren Inc. of \$1,506 and \$1,023 as of December 31, 2011 and 2012, respectively)	1,506	1,023
Total current liabilities	60,487	90,119
Deferred tax liabilities-noncurrent	6,976	6,564

TOTAL LIABILITIES	\$	67,463	\$	96,683
-------------------	----	--------	----	--------

F-3

Table of Contents**RENREN INC.****CONSOLIDATED BALANCE SHEETS - continued****(In thousands of US dollars, except share data and per share data, or otherwise noted)**

	As of December 31,	
	2011	2012
Commitments (Note 27)		
Equity:		
Class A ordinary shares, \$0.001 par value, 3,000,000,000 shares authorized, 770,912,350 and 729,848,742 shares issued and outstanding as of December 31, 2011 and 2012, respectively	\$ 771	\$ 730
Class B ordinary shares, \$0.001 par value, 500,000,000 shares authorized, 398,763,450 and 402,680,117 shares issued and outstanding as of December 31, 2011 and 2012, respectively	399	403
Treasury shares, at cost (18,267,684 as of December 31, 2011)	(25,597)	
Additional paid in capital	1,407,059	1,319,044
Subscription receivable		(229)
Accumulated deficit	(183,228)	(261,459)
Statutory reserves	3,507	6,712
Accumulated other comprehensive income	7,334	39,714
Total shareholders' equity	1,210,245	1,104,915
Noncontrolling interest	300	215
Equity	1,210,545	1,105,130
TOTAL LIABILITIES AND EQUITY	\$ 1,278,008	\$ 1,201,813

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

Table of Contents

RENREN INC.

CONSOLIDATED STATEMENTS OF OPERATIONS

(In thousands of US dollars, except share data and per share data, or otherwise noted)

	Years ended December 31,		
	2010	2011	2012
Net revenues	\$ 76,535	\$ 117,967	\$ 176,086
Cost of revenues	16,624	26,233	66,619
Gross profit	59,911	91,734	109,467
Operating expenses:			
Selling and marketing	20,281	62,050	82,789
Research and development	23,699	40,310	79,541
General and administrative	7,511	17,215	38,860
Impairment of intangible assets	739	2,351	
Total operating expenses	52,230	121,926	201,190
Income (loss) from operations	7,681	(30,192)	(91,723)
Other income		2,340	2,446
Change in fair value of warrants	(74,364)		
Exchange gain (loss) on dual currency deposit/offshore bank accounts	3,781	7,753	(1,769)
Interest income	335	9,619	20,067
Realized gain on short-term investments		50,911	4,317
Gain on disposal of cost method investment	40		
Impairment of cost method investment		(79)	
Income (loss) before provision of income tax and earnings (loss) in equity method investments and noncontrolling interest, net of income taxes	(62,527)	40,352	(66,662)
Income tax benefit (expenses)	1,332	(668)	(920)
Income (loss) before earnings (loss) in equity method investments and noncontrolling interest, net of income taxes	(61,195)	39,684	(67,582)
Earnings (loss) in equity method investments, net of income taxes		1,320	(7,471)
Income (loss) from continuing operations	(61,195)	41,004	(75,053)
Discontinued operations:			
Loss from operation of discontinued operations, net of income taxes	(4,301)		
Gain on disposal of discontinued operations, net of income taxes	1,341		
Loss on discontinued operations, net of income taxes	(2,960)		
Net (loss) income	(64,155)	41,004	(75,053)
		252	27

Edgar Filing: EMBARCADERO TECHNOLOGIES INC - Form 4

Add: Net loss attributable to the noncontrolling interest, net of
income taxes of \$nil

Net (loss) income attributable to Renren Inc.	\$	(64,155)	\$	41,256	\$	(75,026)
---	----	----------	----	--------	----	----------

F-5

Table of Contents**RENREN INC.****CONSOLIDATED STATEMENTS OF OPERATIONS - continued****(In thousands of US dollars, except share data and per share data, or otherwise noted)**

	2010	Years ended December 31,		2012
		2011		
Net income (loss) per share:				
Net income (loss) from continuing operations attributable to Renren Inc. shareholders:				
Basic	\$	(0.30)	\$	0.05
Diluted	\$	(0.30)	\$	0.05
Net loss from discontinued operations attributable to Renren Inc. shareholders				
Basic	\$	(0.01)	\$	\$
Diluted	\$	(0.01)	\$	\$
Net income (loss) attributable to Renren Inc. shareholders:			&	