

MULTIMEDIA GAMES INC
Form 10-K/A
January 26, 2005
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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

Form 10-K/A

Amendment No. 1

(Mark One)

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

For the fiscal year ended: September 30, 2004

TRANSITION REPORT UNDER SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____

Commission file number 001-14551

Multimedia Games, Inc.

(Exact name of Registrant as specified in its charter)

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Texas (State or other jurisdiction of incorporation or organization)	74-2611034 (I.R.S. Employer Identification No.)
206 Wild Basin Road, Building B, Fourth Floor	
Austin, Texas (Address of principal executive offices)	78746 (Zip Code)

Registrant's telephone number, including area code: (512) 334-7500

Registrant's website: www.multimediasgames.com

Securities Registered Pursuant to Section 12(b) of the Exchange Act:

None

Securities Registered Pursuant to Section 12(g) of the Exchange Act:

Common Stock, \$0.01 par value

Preferred Share Purchase Rights

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

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of Registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K

Indicate by check mark whether the Registrant is an accelerated filer (as defined in Rule 12b-2 of the Exchange Act). Yes No

The aggregate market value of voting stock held by non-affiliates of the Registrant as of December 8, 2004 was approximately \$357.6 million based upon the last sales price reported for such date on the NASDAQ National Market System. For purposes of this disclosure, shares of

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common stock held by officers and directors of the Registrant have been excluded because such persons may be deemed to be affiliates. This determination is not necessarily conclusive.

As of December 8, 2004, the Registrant had 27,961,680 outstanding shares of common stock.

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EXPLANATORY NOTE

Multimedia Games, Inc. (Multimedia) is filing this Amendment No. 1 to its Annual Report on Form 10-K filed with the Securities and Exchange Commission (SEC) on December 14, 2004 (the Original 10-K), to: (i) include certain information regarding Multimedia s EBITDA for twelve-month periods ended September 30, 2004, 2003, 2002, 2001 and 2000 at the end of the Section captioned Item 7. Management s Discussion and Analysis of Financial Condition and Results of Operation; and (ii) correct minor typographical and grammatical errors throughout the filing. This Amendment No. 1 does not reflect any events occurring after the filing date of the Original 10-K, or otherwise modify or update any of the information contained therein.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the Proxy Statement for the Registrant s 2005 Annual Meeting of Shareholders are incorporated by reference into Items 10, 11, 12, 13 and 14 of Part III of this Form 10-K.

<u>Document</u>	<u>Form 10-K Reference</u>
Portions of the Definitive Proxy Statement for the Registrant s 2005 Annual Meeting of Shareholders	Items 10, 11, 12, 13 and 14 of Part III

This Annual Report on Form 10-K contains forward-looking statements reflecting our current forecast of certain aspects of our future. It is based on current information that we have assessed but which by its nature is dynamic and subject to rapid, and even abrupt changes. Forward-looking statements include statements regarding future operating results, liquidity, capital expenditures, product development and enhancements, numbers of personnel, customer and strategic relationships with third parties, our strategy, legal and regulatory uncertainties, including outcomes of pending or new litigation by the Department of Justice, the effects of such outcomes upon our business, changes in existing laws and regulations or in the interpretation of such laws and regulations, the effects of competition in the Class II market by games that we believe are non-Class II games, and the effect of uneven enforcement policies by the National Indian Gaming Commission in challenging such non-Class II games. The forward-looking statements are generally accompanied by words such as plan, estimate, expect, intend, believe, should, would, could, anticipate, or other words that convey uncertainty of future events or outcomes. Our actual results could differ materially from those stated or implied by our forward-looking statements, due to risks and uncertainties associated with our business. These risks are described throughout this Annual Report on Form 10-K, which you should read carefully. We particularly refer you to the section under the heading Risk Factors for an extended discussion of certain of the risks confronting our business. The forward-looking statements in this Annual Report on Form 10-K should be considered in the context of these risk factors.

PART I

ITEM 1. Business

General

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We are a supplier of complex, mission-critical systems to the gaming segment of the entertainment industry. We design and develop linked, interactive, electronic gaming systems and related products that are marketed primarily to operators of Native American, charity and commercial gaming facilities, and to operators and/or regulators of domestic and international lotteries.

All of the segments of the gaming industry are highly regulated and we may be affected by expected and/or unforeseen changes in dynamic political, regulatory, socioeconomic, competitive and technological environments.

We specialize in server-based gaming systems commonly known as central determinant systems. We provide these systems for use by Native American gaming operators in both Class II and Class III facilities, operators of charity gaming facilities and for use in domestic lottery jurisdictions. We also provide Point-of-Sale Terminals, or POSTs, for central determinant video lottery systems, and player terminals for bingo systems.

We provide proprietary content that has been designed and developed by us for our gaming systems. We also market game themes we have licensed from others.

We market ancillary products such as back office systems, player tracking systems, slot accounting systems, slot management systems and slot monitoring systems to gaming operators, domestic and international lotteries and regulators. In addition, we market certain proprietary and nonproprietary hardware products that are used in conjunction with our systems.

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Our gaming systems typically operate across proprietary local-area and wide-area broadband networks. We provide linked interactive Class II gaming to our tribal customers via nationwide, broadband telecommunications network. Player terminals in the Class II gaming market are typically interconnected within a gaming facility and to other facilities via fiber optic and telephonic networks, thereby enabling players to simultaneously participate in the same game and to compete against one another to win common pooled prizes. In the charity bingo market, player terminals are typically only interconnected within the gaming facility where the player terminals are located. With the exception of linked progressives, both Class III Native American casinos and traditional commercial casinos normally operate only intrafacility gaming.

Our gaming systems are typically provided to customers under revenue-sharing arrangements, although sales models are common in some markets, for example, the Native American Class III market in Washington State, where POSTs and other products are typically sold for an up-front purchase price. Historically, we have primarily focused our development and marketing efforts on Class II gaming systems for use by Native American tribes throughout the U.S., and Class III video lottery systems for use by Native American tribes under compact with the state of Washington. We have recently focused our marketing efforts on the emerging charity markets in the U.S. and on domestic and international video lottery markets.

Native American Gaming. The Native American gaming market is a highly fragmented segment of the overall gaming industry in the United States. Though not all of the over 562 federally recognized Native American tribes offer gaming, there are over 356 Class II and Class III gaming facilities throughout the United States, with the majority of tribes operating only one facility.

Native American gaming is governed by the Indian Gaming Regulatory Act of 1988, or IGRA, which also established the National Indian Gaming Commission, or the NIGC, and granted the NIGC regulatory powers over certain aspects of Native American gaming. IGRA classifies games that may be played on Native American lands into three categories, each of which is subject to different regulations as follows:

Class I Gaming. Class I gaming includes traditional Native American social and ceremonial games. Class I gaming is regulated exclusively at the Native American tribal level.

Class II Gaming. Class II gaming includes bingo and, if played at the same location where bingo is offered, pull tabs and other games similar to bingo. Class II gaming is regulated by individual Native American tribes, with the NIGC having oversight of the tribal regulatory process. States that allow bingo and games similar to bingo to be conducted by any other entity or for any other purpose, such as bingo at charities or schools, may not regulate Class II gaming, and therefore receive no tax revenues from income the tribes derive from Class II gaming.

Class III Gaming. Class III gaming includes all other forms of gaming that are not included in either Class I or Class II, including slot machines and most table games. Class III gaming may be conducted only pursuant to contracts called compacts that are negotiated between individual states and individual Native American tribes located within that state and subsequently approved by the U.S. Bureau of Indian Affairs. The compacts typically include provisions entitling the state to receive revenues at mutually agreed rates from the income a tribe derives from Class III gaming activities.

We believe that all of our Class II games, electronic player terminals, and gaming systems are designed and operated to meet the requirements of Class II gaming as defined by IGRA, and that all of our Class III games, POSTs, and gaming systems meet the requirements of the appropriate tribal/state compacts. For a more in-depth discussion of these regulations, see the section under the heading Governmental Regulation.

We deliver our Class II games to our Native American customers nationwide through a broadband telecommunications network, which links player terminals located both within and among Class II gaming facilities, enabling players to compete against one another in the same game to

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win pooled prizes. We design and develop all of the hardware, software, networks and content to provide our Native American customers with complete, comprehensive gaming systems.

We currently offer our Class II customers two gaming systems, our Legacy system and our New Generation system. In our Class II gaming markets, we typically provide player terminals to our customers on a participation basis, and receive revenue based on a percentage of the hold per day generated by each player terminal. As of September 30, 2004, we had 10,651 Class II player terminals installed in 83 Native American gaming facilities in 10 states, an increase of approximately 4% from the 10,259 player terminals installed as of September 30, 2003.

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We offer intrafacility linked Class III video lottery systems and POSTs to Native American customers in Washington State. The majority of our Class III POSTs are sold for an up-front purchase price, and we also receive back-office fees based on a percentage of the hold per day generated by each terminal. In addition, we offer Class III POSTs under both rental and lease-purchase programs. As of September 30, 2004, we had 3,583 Class III POSTs running on our central determinant system, an increase of approximately 26% from the 2,851 Class III POSTs installed as of September 30, 2003. As of September 30, 2004, our Class III POSTs were located in 13 gaming facilities in Washington State.

In December 2003, we installed the first POSTs for our new Tribal Instant Lottery Game, or TILG, in California. The new one-touch game is based on a simulated scratch-off lottery ticket, and employs our central determinant system technology.

Charity Gaming. We design, develop and in some cases may operate gaming systems for charity gaming. Charity bingo and other forms of charity gaming are operated by or for the benefit of nonprofit organizations for charitable, educational and other lawful purposes. This and other forms of non-Native American gaming are not currently subject to a federal regulatory system such as the one created by IGRA to regulate Native American gaming. Regulation of charity gaming is vested with each individual state, and in some states, regulatory authority is delegated to county or municipal governmental units. In addition, certain federal laws relating to gaming, such as the Johnson Act and the Wire Act, which regulate interstate gaming and the interstate transportation or illegal operation of slot machines and similar gambling devices, also apply to new video lottery jurisdictions, absent the passage of enabling legislation of constitutional amendments by a state.

We provide linked interactive electronic bingo systems and player terminals to charitable bingo operations in Alabama. During January 2004, we began placing player terminals in Alabama, and as of September 30, 2004, we had 2,059 player terminals at three facilities. The Attorney General of Alabama has recently completed a review of the gaming within the state. He concluded that the games that we were operating in Alabama were a legal form of bingo. He also concluded that two of the facilities are operating under a valid constitutional amendment, authorizing the facilities the ability to play electronic bingo. The third facility is operating under a constitutional amendment that was flawed in its ratification. The Attorney General and his staff have indicated they will file a declaratory judgment action asking the courts to invalidate this amendment as improperly ratified.

Video Lottery Gaming for State Regulated Jurisdictions. We designed and developed a central determinant system for the emerging state video lottery market. Our central determinant system includes all software, hardware and networks required to provide outcomes to, remotely manage, and to provide accounting reports for video lottery gaming conducted on POSTs at multiple locations. Beginning in January 2004, we began the first operation of our central determinant system for the video lottery POST network that the New York Lottery operates at licensed New York State racino racetracks. Our central determinant system is able to interface with, provide outcomes to and manage POSTs provided by Bally Gaming Inc., International Game Technology, Sierra Design Group, and Spielo Gaming International. As payment for providing and maintaining the central determinant system, we receive a small portion of the network-wide hold per day. We believe that we will be able to achieve future growth in the domestic and international video lottery market by leveraging our experience in the states of California, Washington and New York, our leadership in technologically advanced game and system design, and our ability to rapidly adapt game and system technology to satisfy emerging regulatory requirements.

The following table sets forth our end-of-period installed player terminals and POSTs base by quarter and by product line for each of the five most recent fiscal quarters:

Quarter Ended	Reel Time			Total Class II Units	Class III	Other
	Bingo	MegaNanza	Legacy		Washington State	Gaming Units
9/30/2004	9,805		846	10,651	3,583	2,753

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6/30/2004	8,686		1,009	9,695	3,180	1,996
3/31/2004	8,862		1,171	10,033	3,074	1,573
12/31/2003	8,842		1,290	10,132	3,005	589
9/30/2003	8,473	288	1,498	10,259	2,851	

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Through the Investor Relations link on our website, www.multimedialogames.com, we make available free of charge, as soon as reasonably practicable after such information has been filed with the SEC, our Annual Report on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K, and amendments to those reports furnished pursuant to Section 13 or 15(d) of the Securities Exchange Act.

Multimedia Games, Inc. was incorporated in Texas on August 30, 1991. Unless the context otherwise requires, the terms Company, MGAM, we, us, and our include Multimedia Games, Inc., and its subsidiaries MegaBingo, Inc., MGAM Systems, Inc, and Multimedia Services, LLC. Our executive offices are located at 206 Wild Basin Rd. Bldg. B, Fourth Floor, Austin, Texas, 78746, and our telephone number is (512) 334-7500.

Our Strategy

Our strategy is to leverage our position as a dominant supplier of central determinant driven, online gaming systems and an operator of linked, interactive electronic gaming systems and content to place systems and player terminals in the rapidly evolving and growing Native American, charity, video lottery and other domestic and international gaming markets. By doing so, we will increase our revenues, diversify our revenue sources, and expand the number of jurisdictions in which we conduct business. In addition, we plan to use our expertise and technology to develop new products and expand into other new markets for interactive gaming. Our strategies include the following:

Expand our installed base with new and existing customers, and enhance our customer relationships and market position through joint development efforts. We seek to continue our growth in our customer base and to place units with new customers to expand our installed base of linked terminals through development agreements. Pursuant to these agreements, we advance funds for the construction of new gaming facilities or for the expansion of existing facilities. These agreements provide for repayment of some or all of the amounts advanced. In return, we receive certain contractual commitments regarding the placement of player terminals at the gaming facility. As of September 30, 2004, five facilities covered under our development agreements were operating, and we had signed agreements which covered an additional six facilities for an aggregate outstanding commitment to advance approximately \$42.5 million.

Exploit the potential expansion of additional domestic video lottery jurisdictions. We currently provide video lottery technologies to Native American tribes in the states of Washington and California. There are also ongoing legislative initiatives in a number of other states that, if successful, would permit the play of video lottery games in new jurisdictions. For example, New York adopted legislation authorizing the placement of POSTs at eight race tracks located in New York State. In May 2002, the New York Lottery notified us that we had been selected as the winning vendor to provide the central operating system for its video lottery system; currently, four of the eight tracks are in operation. We believe we were selected over our competition primarily on the basis of our system's technological attributes, as well as its flexibility and cost effectiveness. As a result, we anticipate that we will be able to achieve future growth in the video lottery market by leveraging our experience in the states of Washington, California and New York, our leadership in technologically advanced game and system design, and our ability to rapidly adapt our game and system technology to satisfy emerging regulatory requirements.

Continue expansion in the charity gaming market. There are ongoing legislative initiatives in a number of jurisdictions that, if successful, we believe would allow the use of our technology in charity gaming facilities in those jurisdictions. We currently supply systems and/or player terminals to charity operators in Alabama and Louisiana that are authorized to conduct bingo games on behalf of certain nonprofit organizations. As of September 30, 2004, we had installed a total of 2,237 player terminals in the charity gaming market. If similar legislative initiatives are successful in other markets, we believe we will be able to expand into new and evolving markets by building upon our existing gaming system and bingo gaming technology, infrastructure, product base and regulatory expertise.

Develop new products for emerging international markets for charity and commercial interactive, player-against-player gaming. Bingo or similar forms of player-against-player gaming is authorized in more than 100 countries. In a number of these jurisdictions, government regulators and/or legislators are considering expanding the types and forms of authorized gaming. We plans to leverage our success as a system provider and operator of player-against-player gaming in Class II Native American and domestic charity gaming to enter these evolving international markets.

Develop new products for emerging markets for interactive and conventional gaming for commercial and Native American Class III Casinos. We plan to market a variety of new gaming platforms, new proprietary content, and new innovative gaming systems, as well as proprietary stand-alone gaming terminals to both the Native American Class III casino and the conventional casino markets.

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Develop new system-based products for domestic and international operators and regulators of lotteries. As a result of the expansion of gaming, and as new forms of gaming are approved in new jurisdictions, regulators and governmental agencies are procuring new systems and tools to facilitate the control and/or monitoring of gaming operations. We plan to leverage our core systems, accounting, database, encrypted communication, interoperability, data center, network operation center and gaming system operations capabilities to develop proprietary products to facilitate the regulators performing their oversight responsibilities.

Our Competitive Strengths

We intend to execute our strategy by leveraging on our competitive strengths, which include:

Years of experience and success as a proven operator of mission-critical, high-availability, large-scale transactional processing gaming systems. We have been operating central determinant driven, cashless payment systems, player-against-player gaming systems since 1989. Utilizing data centers and network operation centers at multiple locations, we currently operate and/or support seven different gaming systems facilitating gaming operations at over a hundred different facilities. We believe that our long-term experience as an operator of various types of gaming systems is unmatched by any other service provider in the gaming industry, and plan to leverage this valuable experience to obtain new contracts to operate additional gaming systems in new jurisdictions.

Experience providing server-based central determinant games. Since our inception, we have focused on a type of gaming that has come to be known within the gaming industry as server-based central determinant gaming. Many industry-leading gaming companies have now recognized the power of this type of gaming system architecture, and many knowledgeable industry specialists believe that we are the technology leader in this form of gaming system architecture.

Leadership in network enabled gaming. We were one of the first operators of gaming systems to recognize the advantages of networked gaming and to embrace the use of both local area networks and wide area networks to enhance the entertainment value of the gaming experience. We currently operate the largest network of interfacility interactive central determinant gaming in North America. We believe that our experience in operating networked gaming will help us enter new markets in the future.

The technological flexibility of our gaming systems allows us to place player terminals, or POSTs, in multiple geographic locations, add new locations to our network without disrupting play on the network, and to provide a satisfying entertainment and gaming experience to the end user.

Superior technology, products, systems and services. Our technology-driven approach to our business has yielded what we believe are the most flexible and innovative gaming systems in the North American gaming industry. The advanced architecture of our gaming systems enable us to regularly launch new games that we believe appeal to the entertainment and gaming preferences of our end users. Our standard product offerings also include richly featured back-office systems, cashless payment systems, player tracking systems, accounting systems for gaming systems and slot/ video lottery floor management systems. We believe that our investment in and focus on the use of emerging technologies will help us procure additional non-commodity-priced business in the future.

We continually upgrade our existing hardware, communication network infrastructure, and systems and application software to incorporate state-of-the-art architecture. We systematically upgrade the components contained in the player terminals located at our customers facilities so that the player terminals can use our most up-to-date technology, and so we can enhance the gaming and entertainment experience of our end users by offering games that play at high speed and use the new technology to offer advanced graphics and sounds in all of the gaming markets that we serve.

Extensive and flexible content library. We currently offer our own proprietary game themes in our Class II and Class III libraries, and game themes developed through third-party license agreements. Through these agreements, we have access to a significant number of additional game themes with proven acceptance in a variety of gaming jurisdictions, and which we may use in both our Class II and Class III markets.

Our license agreements with WMS Gaming Inc., or WMS, Bally Gaming Inc., or Bally, Mikohn Gaming Corporation, or Mikohn, and Sigma Game Inc., or Sigma, allow us to use some of their most popular game themes, which have player-tested acceptance in other gaming markets. These games are offered in a variety of pay tables, prize distributions and currency denominations.

Utilizing our advanced game development tools and our software driven architecture, our team of game technology specialists can quickly and cost effectively adapt these game themes to the Class II, Class III, charity, video lottery and other gaming markets, and respond quickly to changing end-user preferences as well as changes in the requirements of applicable regulatory agencies.

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Advanced tools for the gaming operator. Our technology embraces the development of new tools to enable the gaming operator to collect and mine data that will empower the operator to optimize the earnings of a gaming facility.

Ongoing revenue from existing installed base. We derive most of our revenues from participation arrangements with our customers, through which we receive a percentage of the hold per day generated by each of our player terminals. Therefore, our interests are closely aligned with the interests of our customers, as a substantial portion of our revenues is dependent on the revenues they generate.

Our Products and Services

Class II Games and Systems. We provide the Class II Native American gaming market with linked, interactive electronic games and related online systems and player terminals. These games, systems and player terminals include:

Flexible gaming systems that enable us to regularly launch new game engines;

Flexible gaming systems that enable us to operate games efficiently;

Flexible game engines that enable us to display the same underlying bingo game utilizing various game themes;

High-speed, interactive Class II bingo games and game themes we designed and developed that provide our end users with an entertaining gaming experience;

Player terminals linked via nationwide, broadband telecommunications network, thereby enabling us to rapidly build quorums and broaden participation in games run throughout the country, and monitor the performance of our network in real time;

Information services that allow our customers to monitor their gaming activities and to improve service to end users; and

Back-office, accounting and player tracking systems that help our customers optimize their earnings.

To take advantage of advances in technology that increase the capability of our systems, improve the end-user experience, broaden participation in the games and thereby increase revenues, we regularly introduce new high-speed, interactive Class II bingo games. Our historical growth in revenue is the result of the increase in our installed base of player terminals and the technological advances we have developed and implemented. These advances have enabled us to dramatically increase the frequency and the number of games played on our system over any given period of time.

From 1989 through April 2003, we produced MegaBingo, a live bingo game that was broadcast via satellite into participating facilities, and utilized a live ball draw. MegaBingo was televised a couple of times per week at multiple bingo facilities throughout the U.S. The game enabled players to simultaneously view the live ball draw on television monitors located in the facility, and compete with players in other facilities in the same live game to win a large jackpot prize. We may resume play of a revised game that is similar in concept to MegaBingo.

In May 1996, we introduced our Legacy gaming system and its related family of game engines with the launch of MegaMania, the first online, interactive bingo game played on player terminals linked within a single facility; shortly thereafter, we began linking multiple facilities with one another via nationwide, broadband telecommunications network. When first introduced, a game of MegaMania took approximately two minutes to play. We used rotating shifts of teams of employees, working twenty-four hours per day, seven days a week, to manually draw bingo ball numbers from a bingo ball blower. The drawn numbers were then keyed into the network to appear simultaneously on multiple player terminals linked to the network and logged onto that game. Today, a game of MegaMania takes about one minute to play. In place of a bingo ball blower, we now use an electronic ball draw that randomly determines bingo numbers, which are instantly communicated over the network to player terminals. This new method has significantly increased the speed and reliability of the game, improved security, and significantly reduced overhead.

In January 2001, we introduced our New Generation gaming system and its related family of game engines with the launch of MegaNanza, a bonanza-style bingo game, where the bingo numbers are drawn before the bingo cards are purchased. We believe the faster pace facilitated by our New Generation gaming system enhances the entertainment and gaming experience of our end users, resulting in an overall increase in the number of end users playing our games.

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In June 2002, we introduced Reel Time Bingo, a high-speed, standard-sequence bingo game, in which the cards are purchased before the balls are drawn, played on our New Generation system. As of October 27, 2003, we had converted all of our MegaNanza games to some version of Reel Time Bingo, both in response to the settlement agreement reached between us and the NIGC, and to take advantage of improved technologies.

We continually strive to improve the capabilities of our core gaming system. In November 2003, we introduced and began deploying our Gen4 gaming system, which enables us to operate games with complex bonus rounds, to operate real-time, interhall progressives and to provide better interoperability between gaming systems. Furthermore, our Gen4 gaming system allows us to operate multiple gaming engines within a single facility. This will be especially beneficial in certain Oklahoma facilities where the operators have decided to continue offering Class II games after they begin offering the new Class III games that are permitted under the compact.

We currently offer a variety of Class II player terminal models. Each Class II player terminal has a screen that always displays the bingo cards being played as well as a flashboard that displays bingo numbers that have been drawn. Depending upon the end user's entertainment preference, an additional display can be selected that minimizes the size of the bingo card display and shows other graphics that can take many forms, including graphics that simulate spinning reels similar to slot machines or video lottery games. In addition to our proprietary titles, some of our player terminals also use displays adapted from game themes we license from WMS, Bally, Sigma and Mikohn. The screen also serves as a touch pad that allows end users to communicate, interactively, decisions that influence the play of the game. Such actions may include initiating play, dropping bingo cards from play, daubing or covering numbers drawn, claiming a prize or ending play. Player terminals vary according to height, width and depth (to accommodate, in part, the differing space needs of our customers' facilities), screen size and other features affecting appearance and the visual appeal to end users.

Our Class II games are linked via nationwide, broadband telecommunications network, which provides several important benefits to us, our customers and our end users:

A large number of potential players are available to rapidly build quorums for individual games.

For certain game designs, larger numbers of end users can compete in a single game, which increases the size of the prize pool.

Class II gaming requires there to be more than one end user participating in a game. Our network enables end users to link with each other more quickly, thereby increasing the number of games played during a given period.

We are able to introduce technological enhancements via our network without the need for location-by-location down time, thereby avoiding lost revenues for our customers.

We are able to monitor network performance in real time, which allows us to quickly identify and respond to network problems and avoid significant down time.

With our ability to launch new games broadly over a large number of player terminals, the chance that any new game will become popular with end users is increased, since the frequency of prizes and its related effect upon the popularity of a game depends in part on the total number of end users participating in the same game.

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In addition, our back-office system provides accounting, management and information services to our customers, who are able to monitor all aspects of their gaming activities by player terminal, by game and by gaming facility. Our back-office system normally includes a database server that archives details of distribution and sales, as well as end-user information used by the gaming facilities for marketing and player tracking, and a management terminal that can monitor game system operation and generate system reports. Our player tracking system allows us to track the playing preferences of those individual end users who have elected to participate in our player tracking program, thereby gaining potentially valuable design insight into game features that appeal to end users. It also serves as a marketing tool for our customers, who are made aware, in real time, of end users playing in their facility.

We continuously monitor our network from our network operations center, headquartered in Austin, Texas, which enables us to identify disruptions or less-than-optimum network performance, as well as to gather valuable data regarding the playing habits and preferences of end users, and this data is then utilized in our game design efforts.

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Class III Games and Systems. We sell, rent or lease Class III POSTs to Native American customers in the state of Washington and receive back-office fees based on a share of the hold per day generated by the POSTs. Class III video lottery gaming in the state of Washington is allowed pursuant to a compact between the state and certain Native American tribes in that state. The compacts contain the specifications for permissible video lottery systems in the state, including:

Only those POSTs within the same gaming facility may be linked with one another;

The system must be cashless ; and

All system components and software and the implementation of each game must be approved by an independent gaming laboratory as well as by the gaming laboratory operated by Washington State.

An end user who wishes to play our Class III POSTs in the state of Washington must open an account with the cashier in the facility and receive a card encoded with an account number and a personal identification number. The end user can then use the card to buy an electronic ticket at a POST, add money to the account at a point-of-sale terminal, or cash out the account.

Electronic replicas of scratch tickets are shown on the POSTs, with the results of the wager displayed in a variety of graphical game formats that entertain the end user with motion and sound before revealing the value of the scratch ticket. We have license agreements with WMS and Bally that allow us to use several of their popular game themes in the state of Washington. Our Class III POSTs are available in a variety of freestanding and bar-top styles having a look and feel that is consistent with traditional video slot machines.

Our Class III systems in Washington State comprise all the software and hardware necessary for operation, and are designed to be readily adaptable to the video lottery requirements of jurisdictions outside that state. Our hardware includes multiple servers that generate sets of electronic lottery tickets, and distribute them on demand to end users sitting at terminals networked throughout a casino. As with our Class II gaming systems, our Class III back-office system allows us to maintain details of ticket manufacture, distribution and sales, and end-user information, and monitor game system operation and generate system reports.

In December 2003, we installed the first POSTs for our new Tribal Instant Lottery Game, or TILG, in California. The new one-touch game is based on a simulated scratch-off lottery ticket, and employs our central determinant system technology. Our customers in the state of California believe that the operation of the video lottery system is permitted under their compact; however, the Office of the Governor of the State of California has notified both the tribes and us that they do not believe that this system can be operated unless it is part of the 2,000 device limit outlined in the compact.

Charity and Commercial Bingo Games and Systems

Video Lottery Central Systems. We designed and developed a central determinant system for the emerging domestic and international video lottery market. Our central system encompasses all software, hardware and networks required to provide outcomes and accounting for video lottery gaming conducted at multiple locations. Beginning in January 2004, we began the first operation of our central determinant system for the video lottery terminal network that the New York Lottery operates at licensed New York State racino racetracks. Our central system is able to interface with and manage POSTs provided by Bally Gaming Inc., International Game Technology, Sierra Design Group, and Spielo Gaming International. As payment for providing and maintaining the central determinant system, we receive a small portion of the network-wide hold

per day. We believe that we will be able to achieve future growth in the domestic and international video lottery market by leveraging our experience in the states of California, Washington and New York, our leadership in technologically advanced game and system design, and our ability to rapidly adapt game and system technology to satisfy emerging regulatory requirements.

Research and Development

Our research and development activities primarily focus on the development of new gaming systems, gaming engines, player tracking systems, casino data management systems, central video lottery systems, gaming platforms and content, and enhancements to our existing product lines. We believe our investments in product development are necessary to deliver differentiated products and solutions to the marketplace. Research and development costs consist primarily of salaries and benefits, consulting fees, and an allocation of corporate facilities costs related to these activities. Once the technological feasibility of a project has been established, the project is transferred from research to development, and capitalization begins.

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Research and development expenses increased by 35.1% to \$3.4 million for the three months ended September 30, 2004, from \$2.5 million for the comparable period in the prior fiscal year. For the year ended September 30, 2004, research and development expenses increased by 23.3% to \$12.3 million, from \$10.0 million for the same period of 2003. This increase primarily resulted from an increased headcount in our development group, as we have focused our internal efforts on developing new gaming systems and game themes. We expect our research and development expenses to grow over the upcoming periods as we continue focusing on product development and adding development staff.

Gaming Contracts

Generally, all of our Class II and Class III gaming revenues are derived through contracts with our Native American customers. Our contracts typically run over multiple years, and can be terminated earlier under certain specified conditions. The contracts specify the quantity and type of player terminals to be installed and the terms of the rental or participation arrangement. There is also a limited waiver of sovereign immunity by each tribe that typically provides for the arbitration of any dispute under the contract, and the right to enforce any decision of the arbitrator by application to a federal or state court having jurisdiction. Under these contracts, we are also granted the right to enter the land of the Native American tribe for the purpose of removing our property under certain circumstances. See **Risk Factors** - We do not rely upon the term of our customer contracts to retain the business of our customers, and - Enforcement of remedies or contracts against Native American tribes could be difficult. Furthermore, the National Indian Gaming commission has recently expressed concern that some of our forms of contract may violate the spirit of the sole proprietary interest concept that is required to be written into all tribal gaming regulations.

Marketing, Advertising and Promotion

In addition, we use a variety of focused advertising and promotion methods, including direct mailings in localities near our customers facilities, discount coupons for new players, advertising in specialized bingo newsletters, and other promotions unique to each facility.

While we consult with our customers on advertising and promotion, we pay most of the costs.

Intellectual Property

We rely to a limited extent upon patent, copyright, trademark and trade secret laws, license agreements and employee nondisclosure agreements to protect our proprietary rights and technology. Since these laws and contractual provisions provide only limited protection, we rely more upon proprietary know-how and continuing technological innovation to develop and maintain our competitive position. Insofar as we rely on trade secrets, unpatented know-how, and innovation, there is no assurance that others will not independently develop similar technology or that secrecy will not be breached.

Patents, Trademarks and Tradenames. We have patents issued and patents pending in the U.S. We also have patents pending overseas corresponding to some of our U.S. patents and pending U.S. patent applications. Our trademarks and tradenames include: Players Passport®, Reel Time Bingo®, MegaNanza® MegaBingo®, and MegaMania®. All references herein to those trademarks and tradenames are deemed to include the applicable tradename or trademark designation. See **Risk Factors** - We may not be successful in protecting our intellectual property rights, or avoiding claims that we are infringing upon the intellectual property rights of others.

Licenses

We are licensed by the state of Washington to conduct Class III gaming in that state, and we are licensed by the states of Texas, Louisiana, and Mississippi as a manufacturer of charitable gaming equipment. For Class II gaming, we are licensed by all of the relevant Native American gaming commissions that grant licenses pursuant to their gaming ordinances. We have sought and obtained determinations that our New Generation games are Class II gaming from each tribe's gaming commission prior to the installation of the games in their facilities. We are also licensed by the state of New York for the purpose of providing the central-determinant-driven video lottery system operated at certain racetracks.

Competition

We currently compete in Native American Class II gaming markets with companies that are both larger and smaller than we are. In this market, we also compete with vendors of paper and electronic pull tabs, paper bingo, and card minders. We compete with other Class II vendors for customers, primarily on the basis of the amount of profit our gaming products generate for our customers in relation to other vendors' gaming products. We believe that the most

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important factor influencing our customers' product selection is the appeal of those products to end users. This appeal has a direct effect on the volume of play by end users, and drives the amount of revenue generated for and by our customers. Our ability to remain competitive depends primarily on our ability to continuously develop new game themes and systems that appeal to end users, and to introduce those game themes and systems in a timely manner. See Risk Factors. Our future performance will depend on our ability to develop and introduce new gaming systems and to enhance existing games that are widely accepted and played. We may not be able to continue to develop and introduce appealing new game themes and systems that meet the emerging requirements of Class II gaming in a timely manner, or at all. In addition, others may independently develop games similar to our Class II games, and competitors may introduce non-Class II games that unfairly compete in the Class II market due to uneven regulatory enforcement policies.

We believe continued developments in the Class II market that alleviate or clarify the legal and regulatory uncertainties of that market will result in increased competition in the interactive electronic Class II gaming market, including the entrance of new competitors with significant gaming experience and financial resources. We believe the increased competition will intensify pressure on our pricing model. In the future, gaming providers will compete on the basis of price as well as the entertainment value and technological superiority of their products. While we will continue to compete by regularly introducing new and faster games with technological enhancements that we believe will appeal to end users, we believe that the net revenue retained by our customers from their installed base of player terminals will become a more significant factor, one that may require us to change the terms of our participation arrangements with customers to remain competitive.

Employees

At September 30, 2004, we had 444 full-time and part-time employees, including 221 engaged in field operations and business development, 152 in system and game development, 23 in sales and marketing activities, 21 in accounting functions, and 27 in other general administrative and executive functions. We do not have a collective bargaining agreement with any of our employees. We believe our relationship with our current employees is good.

Governmental Regulation

General. We are subject to federal, state and Native American laws and regulations that affect both our general commercial relationships with our Native American tribal customers as well as the products and services provided to them. We also offer products for charity bingo markets that are subject to state and local regulation. The following is only a summary of the more material aspects of these laws and regulations, and is not a complete recitation of all applicable law.

Federal Regulation. The most important pieces of federal legislation affecting our business are the Indian Gaming Regulatory Act of 1988, or IGRA, and the Johnson Act.

Indian Gaming Regulatory Act. Most of our business relates to gaming activities on Native American lands. The operation of gaming on Native American lands is subject to IGRA which created the National Indian Gaming Commission, or NIGC, to promulgate regulations to enforce certain aspects of IGRA.

IGRA classifies games that may be played on Native American land into three categories: Class I gaming includes traditional Native American social and ceremonial games, and is regulated only by the tribes. Class II gaming includes bingo and, if played at the same location where bingo

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is played, pull tabs, lotto, punch boards, tip jars, instant bingo, certain card games played under limited circumstances, and other games similar to bingo. Class III gaming consists of all forms of gaming that are not Class I or Class II, such as video lottery games, slot machines, most table games and keno.

IGRA allows Native American tribes to legally engage in Class II gaming on Native American lands in any state where the state permits such gaming by any person for any purpose. For example, if a state permits churches to hold charity bingo nights, then IGRA would allow tribes to engage in bingo on Native American lands located in that state as a Class II gaming activity, free of any interference, regulation or taxation by that state.

IGRA also regulates the terms of gaming management contracts with Native Americans, which must be approved by the NIGC before taking effect, and requires the Native American tribe to have the sole proprietary interest in the gaming operation. Historically, the NIGC has determined that the agreements pursuant to which we provide our Class II games, equipment and services are service agreements and not management contracts, thereby allowing us to obtain terms that might otherwise not be permitted. Under existing regulations, management contracts can have a maximum term of seven years, and limit the amount payable to the manager to 30% of the net revenue from the related gaming activity. On occasion, however, as a condition of its approval of a management contract, the NIGC has required that managers accept both a shorter term and a reduced percentage of the net revenue.

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On April 23, 2004, we reported that the Acting General Counsel of the NIGC had issued a letter to us and one of our tribal customers opining that the our development agreement regarding the WinStar Casino in Thackerville, Oklahoma constituted a management contract. The authority of the NIGC to review and approve gaming-related contracts is limited to management contracts and related collateral agreements. According to the Acting General Counsel, the performance of any planning, organizing, directing, coordinating or controlling with respect to any part of a gaming operation constitutes management for purposes of determining whether an agreement for any of these activities is a management contract. We have expressed our disagreement with this interpretation by the Acting General Counsel, and our belief that her view of management is broader than was intended by Congress. We also believe that the Acting General Counsel's opinion may have been based in part on collateral agreements we provided to the NIGC in error and that are not presently in effect. We, along with certain tribal customers, submitted additional information and documents related to the development agreements for review by the NIGC.

On December 1, 2004, we received a series of letters from the NIGC expressing the Commission's concern that certain of our agreements violate the requirements of IGRA and tribal gaming regulations, which state that the Native American tribes hold the sole proprietary interest in the tribes' gaming operations. In particular, the NIGC is concerned that our development agreements, whereby we advance development funds to our tribal customers in exchange for allocated floor space and a share of gaming revenue, create a proprietary interest of ours in the tribes' gaming operations. As a result of its concern, the NIGC has requested that we and our tribal customers provide a written justification for the percentage of shared revenue specified in the subject agreements, which in the view of the NIGC exceeds the level permissible under a management agreement. The NIGC has also asked that we and our tribal customers provide an explanation why our arrangements do not result in our holding a proprietary interest in our tribal customers' gaming operations. In addition, on December 1, 2004, we received a letter from the NIGC expressing the Commission's concern that an Integrated Electronic Gaming Services Agreement with one of our customers, dated January 2000 and covering one of our Legacy games, constituted a management agreement. According to the Acting General Counsel, the performance of any planning, organizing, directing, coordinating or controlling, with respect to any part of a gaming operation, constitutes management for purposes of determining whether an agreement is a management contract, which requires NIGC approval. We are currently preparing our response to the NIGC's requests.

If certain of our development agreements are finally determined to be management contracts or to create a proprietary interest of ours in tribal gaming operations, there could be material adverse consequences to us. In that event, we may be required, among other things, to modify the terms of such agreements. Such modification may adversely affect the terms on which we conduct business, and significantly impact our financial condition and results of operations from such agreements and from other development agreements that may be similarly interpreted by the NIGC.

Our contracts could be subject to further review at any time. Any further review of these agreements by the NIGC, or alternative interpretations of applicable laws and regulations could require substantial modifications to those agreements or result in their redesignation as management contracts, which could materially and adversely affect the terms on which we conduct business.

Johnson Act. The Johnson Act broadly defines an illegal gambling device as any machine or mechanical device designed and manufactured primarily for use in connection with gambling and that, when operated, delivers money or other property to a player as the result of the application of an element of chance. Courts that have considered the scope of the Johnson Act in relation to IGRA have generally determined that the Johnson Act does not prohibit the use of electronic and technological aids to bingo that operate to broaden the participation of players to play against one another rather than against a machine.

Class II gaming is defined by IGRA as including the game of chance commonly known as bingo (whether or not electronic, computer or other technological aids are used in connection therewith). However, IGRA's definition of Class II gaming expressly excludes electronic or electromechanical facsimiles of any game of chance or slot machines of any kind. Prior to June 17, 2002, regulations adopted by the NIGC defined electronic or electromechanical facsimiles of any game of chance or slot machines of any kind as being equivalent to gambling devices, as defined and prohibited by the Johnson Act.

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On June 17, 2002, the NIGC published new regulations, effective July 16, 2002, defining the terms "electronic, computer or other technological aids" that can legally be used in Class II gaming, and "electronic or electromechanical facsimiles of a game of chance" that may not be legally used in Class II gaming. The NIGC

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essentially did away with using the Johnson Act definition of "gambling device" as the method of determining what constituted an illegal electronic or electromechanical facsimile of a game of chance, and relied instead upon existing court cases which have held that legal technological aids permitted by IGRA are aids that broaden the participation levels of players in the same game, facilitate communication between and among gaming facilities, and allow players to play a game with or against other players rather than with or against a machine. Under these court decisions, any devices that accomplish these objectives are not "gambling devices" prohibited by the Johnson Act.

These new NIGC regulations are not binding upon the DOJ, which is the federal agency charged with enforcing the Johnson Act. The DOJ has asserted in the past and, as described below, continues to assert their position, that any electronic or mechanical device used in gaming, such as the electronic player terminals used to play our Class II games, are illegal "gambling devices," and thus in violation of the Johnson Act.

In a decision of the United States Court of Appeals for the Tenth Circuit (*Seneca-Cayuga Tribe of Oklahoma, et al. vs. National Indian Gaming Commission, et al.*, decided April 17, 2003), a federal circuit court considered the applicability of the Johnson Act to Class II gaming. The opinion of the court was in line with several previous court opinions (including the Ninth and Tenth Circuit opinions on our MegaMania games) that found that the Johnson Act did not prohibit the use of technological aids to Class II gaming on Native American land. The court also noted that their opinion was in line with the new NIGC regulations. In another recent decision from the United States Court of Appeals for the Eighth Circuit (*United States of America vs. Santee Sioux Tribe of Nebraska*, decided March 20, 2003), a circuit court found for the first time that the Johnson Act does apply to Class II technological aids, although the court also found that the pull-tab player terminals at issue in that case were not Johnson Act devices. That court also went on to cite the fact that the NIGC has adopted new regulations and that those regulations would permit Class II technological aids under IGRA.

On November 21, 2003, the DOJ filed a Petition for a Writ of Certiorari in the Supreme Court seeking review of the two U.S. Circuit Court cases that examined whether the Johnson Act prohibits Native American tribes from offering certain types of electronic gaming devices. Specifically, the DOJ sought review of *United States of America v. Santee Sioux Tribe of Nebraska, a federally recognized Indian Tribe*, on Petition for a Writ of Certiorari to the United States Court of Appeals for the Eighth Circuit, and *John D. Ashcroft, Attorney General, et al., v. Seneca-Cayuga Tribe of Oklahoma, et al.* on Petition for a Writ of Certiorari to the United States Court of Appeals for the Tenth Circuit. In the petitions, the DOJ asserted that the Johnson Act prohibits Native American tribes from operating certain electronic gambling devices without a compact with the appropriate state.

On February 27, 2004, the Supreme Court declined to grant the DOJ's Petitions for Writs of Certiorari. Although our machines were not the subject of the lawsuits, the DOJ's arguments and reasoning appeared to encompass the machines offered by us for the Class II market. Since the Supreme Court declined to accept these cases for review, the lower courts' decisions affirming the right of the tribes to offer games such as those manufactured and sold by us as legal "electronic aids" to bingo for the Class II market will continue to stand. We believe that for the immediate future, significant legal uncertainty has been eliminated concerning our ability to continue to offer Class II games played with the assistance of technological aids in our principal market. However, the elimination of this legal uncertainty may have contributed to increased competition from vendors currently in the Class III market who we believe have avoided entry into the Class II market due to the legal uncertainties described above.

Game Classification Standards. The NIGC has expressed concern that accelerated changes in gaming technology threaten to obscure the statutory distinction between permissible Class II technologic aids and Class III electronic facsimiles and slot machines. As a result, earlier this year the NIGC began a process to develop regulations that the NIGC believes will result in "clear, precise, objective and verifiable standards" distinguishing technologic aids from electronic facsimiles and slot machines.

On March 30, 2004, the NIGC established a Tribal Advisory Committee made up of tribal gaming operators and regulators nominated by tribal leaders. The purpose of the committee is to solicit their input on the various working drafts of the Class II game classification standards prepared

by NIGC staff.

On September 30, 2004, the NIGC released its third draft of the game classification standards on its website, and for the first time invited comment by all interested parties, including tribal leaders, gaming operators and regulators, states, gaming vendors and manufacturers, in order to help the NIGC formulate the standards. Public comments were due on November 12, 2004, but that date was later extended to November 29, 2004.

According to the Chairman of the NIGC, all received comments are to be shared and discussed with the Tribal Advisory Committee and NIGC staff in developing subsequent preliminary drafts and formulating the Class II technical classification standards and procedures for publication in the Federal Register as a proposed NIGC rule.

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After the proposed rule is published in the Federal Register, there will be a 60-day review and comment period for all tribes, as well as gaming manufacturers, and suppliers, and other interested persons. The final NIGC rule will be formulated and published in the Federal Register, and take effect only after all submitted tribal and public comments on the proposed rule are considered by the NIGC and its Tribal Advisory Committee.

During the 60-day comment period on the proposed rule, the NIGC intends to conduct one or more public hearings to receive public comments from tribal leaders and representatives and other interested persons regarding the merits of the proposed Class II technical standards and procedures set forth in the proposed rule.

It is anticipated that the proposed rule will be prepared and published in the Federal Register on or about January 26, 2005. After completion of the 60-day comment period and all public hearing(s) on the proposed rule, the NIGC plans to consult further with the Tribal Advisory Committee and other tribal leaders to complete formulation of the final rule. Under the current NIGC timeline, the NIGC expects the final rule to be published in the Federal Register and take effect in late June 2005.

Tribal-State Compacts. Native American tribes cannot offer Class III gaming unless, among other things, they are parties to compacts with the states in which they operate. The tribal-state compacts typically include provisions entitling the state to receive revenues from the income a tribe derives from Class III gaming activities. Although compacts are intended to document the agreement between the state and a tribe relative to permitted Class III gaming operations, they are agreements, and can be subject to interpretive and other ambiguity and disputes. Currently, we operate in three states where compacts significantly affect our business: California, Oklahoma, and Washington.

California. In December 2003, we began to offer TILG POSTs to tribal customers in California who are parties to compacts with the state. In November 2004, two of our tribal customers opened expanded facilities which increased the number of TILG POSTs substantially. In part, these compacts permit each tribe to offer gaming facilities with up to 2,000 gambling devices, and separately, permit the play of any video lottery machine that the state of California could legally offer. The state and our tribal customers are currently involved in a dispute over our TILG games, wherein the state asserts, among other things, that the TILG POSTs should be counted for purposes of determining that the tribe is offering only 2,000 machines in its facility. As a result of this dispute, we may be required to modify or remove our machines from the tribal facilities, among other risks to our business.

In California, our TILG POSTs are the subject of a dispute between the state of California and our tribal customers, which may result in significant modification or discontinuation of the play of these games.

Oklahoma. In May 2004, the Oklahoma Legislature passed legislation authorizing certain forms of gaming at racetracks, and additional types of games at tribal gaming facilities, pursuant to a tribal-state compact. This legislation was subject to approval in a statewide referendum, which was subsequently obtained in the November 2004 elections. The Oklahoma gaming legislation will allow the tribes to sign a compact with the state of Oklahoma to operate an unlimited number of electronic instant bingo games, electronic bonanza-style bingo games, electronic skill games and non-house-banked blackjack games. In addition, certain horse tracks in Oklahoma will be allowed to operate a limited number of instant and bonanza style bingo games and skill games. Three tribes and the state must sign the compact and the Bureau of Indian Affairs must approve the compact before the compact becomes effective. The compact could be effective and the tribes could begin operating the compacted games as soon as December 2004. All vendors placing games under the compact will ultimately be required to be licensed by the state of Oklahoma.

We believe the recently adopted Oklahoma legislation significantly clarifies and expands the types of gaming permitted by Native America tribes in that state. We currently expect continued intensified competition from vendors currently operating in Oklahoma, as well as new market entrants. As a result, we anticipate further pressure on our market and revenue share percentages in Oklahoma. In addition, in the immediate future, we expect continued regulatory uncertainty in Oklahoma. In particular, although we and other vendors may not begin to offer games

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enabled by the new legislation until state and tribal regulations, rules and specifications adopted pursuant to that legislation become final, certain other vendors and tribes may begin to offer new games prior to that time. It is unclear what, if any, regulatory enforcement action could or would be taken against tribes and vendors offering games not authorized by existing law but permitted under the newly adopted but not yet effective legislation.

Washington. In Washington State, we offer video lottery POSTs operated in conjunction with local central determinant systems, pursuant to compacts between the state and certain Native American tribes in that state. These compacts are recognized by IGRA to permit Class III gaming, which would otherwise be illegal.

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Native American Regulation of Gaming. IGRA requires that Native American tribes adopt and submit for NIGC approval gaming ordinances that regulate tribes' conduct of gaming. While these ordinances vary from tribe to tribe, they commonly provide for the following:

Native American ownership of the gaming operation;

Establishment of an independent tribal gaming commission;

Use of gaming net revenues for Native American government, economic development, health, education, housing or related purposes;

Independent audits, including specific audits of all contracts for amounts greater than \$25,000;

Native American background investigations and licenses;

Adequate safeguards for the environment and the public health and safety; and

Dispute resolution procedures.

Pursuant to IGRA, our tribal customers have adopted regulations requiring the tribe to have the sole proprietary interest in its gaming activities. We and certain of our customers have recently received correspondence from the NIGC expressing concern that our agreements with these customers create a proprietary interest in the tribes' gaming operations. We are preparing a response to the NIGC addressing this issue. See Governmental Regulation Federal Regulation Indian Gaming Regulatory Act.

Charity Gaming. Charity bingo facilities are generally operated by nonprofit organizations for charitable, educational and other lawful purposes. Charity bingo is not currently subject to a nationwide regulatory system such as the one created by IGRA to regulate Native American gaming, so regulation is on a state-by-state, and sometimes a county-by-county basis. We currently offer charity bingo gaming systems in the state of Alabama pursuant to state and county regulations. We also offer games to certain operators in Louisiana.

Other. Existing federal and state regulations may also impose civil and criminal sanctions for various activities prohibited in connection with gaming operations, including false statements on applications and failure or refusal to obtain necessary licenses described in the regulations.

RISK FAC7px;left:346.75px;height:16.75px;width:81.75px;text-align:left;padding: 0in 0in 0in 0in;'> Total

3,

777

Developable square feet

**Dallas and Austin will comprise 12% of
the Company after initial dispositions**

11

¹ Assumes Dallas sales of 25% to 30% of square footage in 12 to
18 months

Austin

Dallas/Fort Worth

Austin Region (000 s)

,349

1

Developable square feet

3,576

Total

496

Square feet managed

)

1,538

(

Square feet to be sold¹

,618

4

Square feet owned

Dallas/Fort Worth Region (000 s)

Square feet owned

1,672

Square feet managed

559

Total

2,231

Developable square feet

211

**Dallas capital recycling is
facilitated by market liquidity**

\$1.25 billion of Class A office transaction volume in the trailing six
quarters ended June 30, 2005

Average Class A cap rate of 6.58% for first half of 2005

Price per square foot for high quality office assets above \$200

High profile asset sales characterized by multiple qualified bids

Continuation of plan already under consideration by Prentiss

Sale proceeds targeted to development pipeline

12

Brandywine's five core markets

Core markets -- square footage (000's)

Dallas market -- square footage (000's)

13

Austin

5.1%

Oakland

8.8%

San Diego

8.7%

Philadelphia

46.6%

Washington, D.C.

30.8%

¹ Includes Philadelphia, PA North, PA West, New Jersey and Delaware

² Includes Richmond Virginia asset managed by Brandywine

³ Assumes Dallas sales of 25% to 30% of square footage in 12 to 18 months

⁴ Excludes Dallas

593

43,

777

3,

31

2,2

3,831

454

13,

20,300

Total

775

16,

554

3,

9

55

2,091

7,655

2,916

Managed

6,819

2

223

1,672

1,739

5,799

17,384

Owned

Total

San Diego

Austin

Oakland

Washington D.C.²

Metro

region¹

Philadelphia

Owned and managed core market sq. ft.⁴

576

3,

Total

496

Managed

3,080

Owned

after

3

Dallas

Dallas

b

efore

Owned

4,618

Managed

496

Total

5

,

114

Credit ratings affirmed

14

Moody's

Moody's Investors Service has affirmed the Baa3 senior unsecured debt rating of Brandywine. the Prentiss transaction will bring increased size and geographic diversity to Brandywine. a large portion of the acquired assets are in Washington D.C., a market familiar to Brandywine, and the transaction should boost Brandywine's market leadership.

S&P

On Oct. 3, 2005, Standard & Poor's Ratings Services affirmed its ratings of Brandywine Realty Trust Inc. This leverage neutral transaction will materially broaden Brandywine's operating platform and tenant base. Brandywine intends to finance the \$2.5 billion purchase price in a manner that will preserve appropriate credit metrics for the rating.

Fitch

Fitch Ratings views Brandywine Realty Trust's expected acquisition of approximately 77% of the assets of Prentiss Properties Trust as a credit positive for Brandywine.

The acquisition of the Prentiss assets will materially add to the geographic diversification of BDN's portfolio.

Fitch also anticipates that BDN's expected size will enhance its access to capital and potentially lower its financing costs.

Pro forma credit statistics

Total debt / gross assets

51.1%

EBITDA/Interest expense

2.53x

EBITDA/Interest expense + preferred distributions

2.41x

**Mitigating integration risk
effective capital deployment**

15

Mike Prentiss and Tom August to join Brandywine's Board of Trustees

Provide guidance to Board on capital deployment

Tom August to enter into a two-year consulting agreement to assist in overall integration efforts

Corporate management depth strengthened by three Prentiss executives

Bob Wiberg EVP of Operations

Greg Imhoff Chief Administrative Officer

Scott Fordham VP and Chief Accounting Officer

To ensure continuity of operations Prentiss regional managers will enter into two-year employment agreements

All regions to be run by teams reporting to Bob Wiberg

Takeaways

Regional focus -- Brandywine becomes a regionally focused REIT with several attractive capital deployment options

Strong platform -- platform can effectively respond to demand drivers in new markets

Increased growth -- Projected EBITDA growth rates from new markets exceed expected growth rates from the Philadelphia region

Market outperformance -- Brandywine is well positioned to outperform in the Philadelphia Region

Experienced management -- Combined management team ranks best-in-class and has the depth and scope to replicate Brandywine's market concentration strategy

Balance sheet flexibility -- Expanded balance sheet allows Brandywine the opportunity to increase development pipeline and strategically pursue property acquisitions