

CrowdGather, Inc.
Form 8-K
June 10, 2010

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT

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

Date of Report (Date of earliest event reported): June 9, 2010

CrowdGather, Inc.
(Exact name of registrant as specified in its charter)

Nevada
(State or other jurisdiction of
incorporation or organization)

000-52143
(Commission File No.)

20-2706319
(IRS Employee
Identification No.)

20300 Ventura Blvd. Suite 330, Woodland Hills, CA 91364
(Address of principal executive offices) (Zip Code)

Registrant's telephone number, including area code: (818) 435-2472

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

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01. Entry into a Material Definitive Agreement.

Agreement and Plan of Merger

On June 9, 2010, CrowdGather, Inc., a Nevada corporation (the “Registrant”), entered into an Agreement and Plan of Merger dated June 9, 2010 among the Registrant, Adisn, Inc., a Delaware corporation (“Adisn”) and the Registrant’s wholly-owned subsidiary, Adisn Acquisition Corp. (the “Merger Agreement”), pursuant to which Adisn Acquisition Corp. shall merge with and into Adisn and Adisn will survive as the wholly-owned subsidiary of the Registrant (“Merger”). Pursuant to the Merger, the shareholders of Adisn (“Adisn Stockholders”) received 4,621,849 shares of common stock of the Registrant (the “Merger Shares”), subject to the escrow obligations of the Securities Escrow Agreement, as discussed below, plus a right to receive the Earn-Out Shares, as defined below, if and when they become issuable.

In connection with the Merger, issued and outstanding warrants to purchase 825,000 shares of Adisn common stock became warrants to purchase shares of common stock of Registrant. The exercise price and number of shares was proportionately adjusted based on the exchange ratio for Adisn common stock issued in connection with the Merger, such that the holder of the warrants will have the right to purchase 161,997 shares of the Registrant’s common stock at \$1.018 per share.

The Merger Shares will be issued to the Adisn Stockholders in a transaction which the Registrant believes satisfies the requirements of that exemption from the registration and prospectus delivery requirements of the Securities Act of 1933, which exemption is specified by the provisions of Section 4(2) of that act and Regulation D promulgated pursuant to that act by the Securities and Exchange Commission.

The Merger Agreement also provides that the Registrant will issue an additional \$1,000,000 to the Adisn Stockholders, which shall be payable in shares of the Registrant’s common stock (“Earn-Out Shares”) to be distributed on a pro-rata basis. The number of Earn-Out Shares to be issued to the Adisn Stockholders shall be calculated by dividing \$1,000,000 by the 20-day volume weighted average price of the Registrant’s common stock, the 20th day of which shall be the trading day immediately preceding the one year anniversary date of June 9, 2010. The Earn-Out Shares will only be issued to the Adisn Stockholders if, during the next twelve months, Adisn generates gross revenues, as defined according to GAAP, of more than \$1,562,500.

The Merger Agreement further provides that in the event the Registrant files a registration statement with the Securities and Exchange Commission pursuant to the Securities Act of 1933, as amended, Adisn Stockholders has the right to request that the Registrant include in that registration statement the shares of common stock then held by Adisn Stockholders.

A copy of the Merger Agreement is attached hereto as Exhibit 10.1. This brief description of the Merger Agreement is not intended to be complete and is qualified in its entirety by reference to the full text of the Merger Agreement as attached as Exhibit 10.1.

Securities Escrow Agreement

As an inducement to the Registrant to enter into the Merger Agreement, on June 9, 2010, Registrant and certain of the Adisn Stockholders entered into a Securities Escrow Agreement (“Securities Escrow Agreement”), pursuant to which those Adisn Stockholders agreed to place stock certificates of the Registrant’s common stock representing an aggregate of two million one hundred seventy two thousand six hundred three (2,172,603) shares of common stock (“Escrow Shares”) into escrow for the benefit of the Registrant (i) to secure the indemnification obligations in Section 10(c)(i)

and (iii) of the Merger Agreement, and (ii) in the event the Registrant fails to achieve certain financial performance thresholds for the six and twelve month periods following the closing of the Merger.

This brief description of the Securities Escrow Agreement is not intended to be complete and is qualified in its entirety by reference to the full text of the Securities Escrow Agreement as attached as Exhibit 10.2.

Lock-up Agreements

Concurrently with the closing of the Merger Agreement, the Registrant entered into Lock-up Agreements with certain of the Adisn Stockholders for the Merger Shares (“Lock-up Agreements for Merger Shares”). The Adisn Stockholders agreed that during the period from the closing of the Merger Agreement on June 9, 2010, until the first anniversary thereof, the Adisn Stockholders will not sell, transfer, or otherwise dispose of more than (i) fifty percent of the Merger Shares during the first three month period after the six month period from June 9, 2010, and (ii) fifty percent of the Merger Shares during the second three month period after the six month period from June 9, 2010, other than in connection with an offer made to all stockholders of the Registrant in connection with merger, consolidation, or similar transaction involving the Registrant.

Concurrently with the closing of the Merger Agreement, the Registrant entered into Lock-up Agreements with certain of the Adisn Stockholders for the Escrow Shares (“Lock-up Agreements for Escrow Shares”). The Holder hereby agrees that during the period from the closing of the Merger Agreement on June 9, 2010, until the eighteen month anniversary thereof, the Adisn Stockholders will not sell, transfer, or otherwise dispose of more than (i) fifty percent of the Escrow Shares during the first three month period after the twelve month period from June 9, 2010, and (ii) fifty percent of the Escrow Shares during the second three month period after the twelve month period from June 9, 2010, other than in connection with an offer made to all stockholders of the Registrant in connection with merger, consolidation, or similar transaction involving the Registrant.

The form of the Lock-up Agreements for Merger Shares is attached hereto as Exhibit 10.3. The form of the Lock-up Agreements for Merger Shares is attached hereto as Exhibit 10.4. The brief descriptions of each of the Lock-up Agreements are not intended to be complete and are qualified in its entirety by reference to the full text of each of the Lock-up Agreements as attached as exhibits.

Item 2.01. Completion of Acquisition or Disposition of Assets.

The information set forth in Item 1.01 of this Current Report on Form 8-K is incorporated by reference into this Item 2.01.

Item 3.02 Unregistered Sales of Equity Securities.

The information set forth in Item 1.01 of this Current Report on Form 8-K is incorporated by reference into this Item 3.02.

Item 7.01 Regulation FD Disclosure.

On June 10, 2010, the Registrant intends to issue a press release to announce that the Registrant closed the Merger Agreement with Adisn, as discussed above. A copy of the release is attached as Exhibit 99.1.

This information shall not be deemed “filed” for purposes of Section 18 of the Securities and Exchange Act 1934, as amended, and is not incorporated by reference into any filing of the company, whether made before or after the date of this report, regardless of any general incorporation language in the filing.

Item 9.01 Financial Statement and Exhibits.

(a) Financial Statements.

Financial Statements of Adisn, Inc. for the fiscal years ended December 31, 2009 and December 31, 2008 (Audited)
Notes to Financial Statements (Audited)

(b) Exhibits.

The following exhibits are filed with this report on Form 8-K.

Exhibit Number	Exhibit
10.1	Agreement and Plan of Merger with Adisn, Inc.
10.2	Securities Escrow Agreement
10.3	Form of Lock Up Agreement for Merger Shares
10.4	Form of Lock Up Agreement for Escrow Shares
99.1	Press Release dated June 10, 2010

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this Report on Form 8-K to be signed on its behalf by the undersigned hereunto duly authorized.

CrowdGather, Inc.

Date: June 9, 2010

By: /s/ Sanjay Sabnani
Sanjay Sabnani
Chief Executive Officer

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INDEPENDENT AUDITORS' REPORT

To the Board of Directors
Adisn, Inc.
Long Beach, California

We have audited the accompanying balance sheets of Adisn, Inc. (a Delaware corporation) as of December 31, 2009 and 2008, and the related statements of operations, stockholder's equity (deficit), and cash flows for the years then ended. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audit.

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

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Adisn, Inc. as of December 31, 2009 and 2008, and the results of its operations and cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

The accompanying financial statements have been prepared assuming that the Company will continue as a going concern. As more fully described in Note 3, the Company has incurred recurring operating losses and has an accumulated deficit. These conditions raise substantial doubt about the Company's ability to continue as a going concern. Management's plans in regard to these matters are also described in Note 3. The financial statements do not include any adjustments that may result from the outcome of this uncertainty.

Q Accountancy Corporation

Laguna Niguel, California
May 14, 2010

ADISN, INC.
BALANCE SHEETS
DECEMBER 31, 2009 AND 2008

ASSETS

	2009	2008
Current assets:		
Cash and cash equivalents	\$1,420	\$1,400
Accounts receivable, net of allowance for doubtful accounts of \$0 and \$0, respectively	175,867	74,000
Advances to officers	-	862
Prepaid expenses	4,642	5,257
Total current assets	181,928	81,518
Property, plant and equipment, net	45,751	60,546
Patents	28,153	27,762
Total assets	\$255,832	\$169,826

LIABILITIES AND STOCKHOLDERS' EQUITY (DEFICIT)

Current liabilities:		
Bank overdraft	\$2,613	\$ 13,532
Accounts payable	191,459	38,437
Accrued liabilities	163,923	58,847
Total current liabilities	357,995	110,816
Commitments and contingencies	-	-
Stockholders' equity (deficit):		
Preferred stock, \$0.001 par value, 8,179,959 shares authorized; 5,368,097 and 5,112,474 shares issued and outstanding, respectively	5,368	5,112
Common stock, \$0.001 par value, 31,328,353 shares authorized; 20,874,220 and 17,807,157 shares issued and outstanding, respectively	20,874	17,807
Additional paid in capital	2,245,663	1,696,820
Accumulated deficit	(2,374,068)	(1,660,729)
Total stockholder's equity (deficit)	(102,163)	59,010
Total liabilities and stockholders' equity (deficit)	\$ 255,832	\$169,826

See accompanying notes to financial statements.

ADISN, INC.
STATEMENTS OF OPERATIONS
FOR THE YEARS ENDED DECEMBER 31, 2009 AND 2008

	2009	2008
Revenues	\$889,867	\$132,500
Cost of revenues	504,791	120,203
Gross profit	385,076	12,297
Operating expenses:		
Research and development	-	187,150
Sales and marketing	154,240	38,485
Salaries, wages and related expense	610,260	565,538
Consulting and outside services	52,887	133,647
Legal and professional	29,811	72,405
Depreciation and amortization	14,168	10,295
Rent	49,092	43,695
Other general and administrative	86,157	149,906
Total operating expenses	996,614	1,201,121
Loss from operations	(611,539)	(1,188,825)
Other income (expense):		
Interest income	28	4,934
Interest expense	-	(2,791)
Other income (expense)	(101,028)	537
Total income (expense)	(101,000)	2,680
Loss before provision for income taxes	(712,539)	(1,186,145)
Provision for income taxes	800	