

EMAGIN CORP
Form 10-K/A
September 04, 2015

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 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 December 31, 2014
or

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

For the transition period from _____ to _____
Commission file number 001-15751

eMAGIN CORPORATION

(Exact name of registrant as specified in its charter)

Delaware **56-1764501**
*(State or other jurisdiction of (I.R.S. Employer
incorporation or organization) Identification No.)*

2070 Route 52, Hopewell Junction, NY 12533

(Address of principal executive offices)

(845) 838-7900

(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act: Common Stock, \$.001 Par Value Per Share

Securities registered pursuant to Section 12(g) of the Act: None

Indicate by check mark whether the registrant is a well-known seasoned issuer as defined in Rule 405 of the Securities Act. Yes ☐ No ☐

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☐

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 whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§ 229.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☐ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§ 229.405 of this chapter) 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 a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definition of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

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

Indicate by check mark whether the registrant is a shell company (as defined by Rule 12b-2 of the Exchange Act)

Yes No

As of June 30, 2014, the last business day of the registrant's most recently completed second quarter, the aggregate market value of the issued and outstanding common stock held by non-affiliates of the registrant, based upon the closing price of the common stock as traded on the NYSE MKT of \$2.23 was approximately \$36.9 million. For purposes of the above statement only, all directors, executive officers and 10% shareholders are assumed to be affiliates. This determination of affiliate status is not necessarily a conclusive determination for any other purpose.

The number of shares of common stock outstanding as of January 31, 2015 was 25,195,107.

DOCUMENTS INCORPORATED BY REFERENCE – Portions of the registrant's definitive Proxy Statement relating to its 2015 Annual Meeting of Shareholders are incorporated by reference into Part III of this Annual Report on Form 10-K where indicated.

EXPLANATORY NOTE

eMagin Corporation (the “Company”) is filing this Amendment No. 1 on Form 10-K/A to amend Item 15 of Part IV of its Annual Report on Form 10-K for the fiscal year from December 31, 2014, as filed with the Securities and Exchange Commission (the “SEC”) on March 13, 2015 (the “Original Filing”). The purpose of this Amendment No. 1 is to file an updated Exhibit 23.1 to the Original Filing. In accordance with Rule 12b-15 of the Securities Exchange Act of 1934, as amended, the Company has set forth the text of Item 15, as amended, in its entirety. No other revisions or amendments have been made to Part IV, Item 15 or to any other portion of the Original Filing. This Amendment No. 1 does not otherwise update information in the Original Filing to reflect facts or events occurring subsequent to the date of the Original Filing. Accordingly, this Amendment No. 1 should be read in conjunction with the Original Filing and with the Company’s filings with the SEC subsequent to the Original Filing. Currently dated certifications from the Company’s Chief Executive Officer and Chief Financial Officer have been included as exhibits to this Amendment No. 1.

ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

(a) Financial Statements and Schedules

1. *Financial Statements*

The following consolidated financial statements are filed as part of this report under Item 8 of Part II “Financial Statements and Supplementary Data:

- A. Consolidated Balance Sheets at December 31, 2014 and 2013.*
- B. Consolidated Statements of Operations for the Years Ended December 31, 2014 and 2013.*
- C. Consolidated Statements of Changes in Shareholders’ Equity for the Years Ended December 31, 2014 and 2013.*
- D. Consolidated Statements of Cash Flows for the Years Ended December 31, 2014 and 2013.*

* Incorporated by reference to the Registrant’s Annual Report on Form 10-K filed on March 13, 2015.

2. *Financial Statement Schedules*

Financial statement schedules not included herein have been omitted because they are either not required, not applicable, or the information is otherwise included herein.

(b) Exhibits

The exhibits listed in the accompanying Index to Exhibits on pages 5 to 7 are filed or incorporated by reference as part of this Annual Report on Form 10-K/A.

SIGNATURES

In accordance with Section 13 or 15(d) of the Exchange Act, the registrant caused this report to be signed on its behalf by the undersigned, thereunto duly authorized on this 3rd day of September, 2015.

eMAGIN CORPORATION

By: /s/ Andrew G. Sculley
Andrew G. Sculley
Chief Executive Officer

In accordance with the Exchange Act, this report has been signed below by the following persons on September 3, 2015, on behalf of the registrant and in the capacities indicated.

Signature	Title
/s/ Andrew G. Sculley Andrew G. Sculley	President and Chief Executive Officer, Director (Principal Executive Officer)
/s/ Paul Campbell Paul Campbell	Chief Financial Officer (Chief Accounting Officer and Principal Financial Officer)
/s/ Jill J. Wittels Jill J. Wittels	Chair of the Board, Director
/s/ Ellen Richstone Ellen Richstone	Director
/s/ Christopher Brody Christopher Brody	Director
/s/ Paul Cronson Paul Cronson	Director

/s/ Leslie Polgar Leslie Polgar	Director
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/s/ Stephen Seay Stephen Seay	Director
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eMAGIN CORPORATION

INDEX TO EXHIBITS

Exhibit Number	Description
2.1	Agreement and Plan of Merger between Fashion Dynamics Corp., FED Capital Acquisition Corporation and FED Corporation dated March 13, 2000 (incorporated by reference to exhibit 2.1 to the Registrant's Current Report on Form 8-K/A filed on March 17, 2000).
3.1	Amended and Restated Certificate of Incorporation (incorporated by reference to an appendix to the Registrant's Definitive Proxy Statement filed on September 21, 2006).
3.2	Certificate of Amendment of Amended and Restated Certificate of Incorporation (incorporated by reference to an appendix to the Registrant's Definitive Proxy Statement filed on October 26, 2010).
3.3	Bylaws of the Registrant (incorporated by reference to exhibit 99.3 to the Registrant's Definitive Proxy Statement filed on June 14, 2001).
3.4	Certificate of Designations of Series B Convertible Preferred Stock (incorporated by reference to Exhibit 4.2 of the Registrant's current report on Form 8-K filed on December 23, 2008).
4.1	Form of Common Stock Purchase Warrant (incorporated by reference to Exhibit 4.1 to the Registrant's current report on Form 8-K filed on December 23, 2008).
10.1	Form of Agreement for Stock Option Grant pursuant to 2003 Stock Option Plan (incorporated by reference to exhibit 99.2 to the Registrant's Registration Statement on Form S-8 filed on March 14, 2000).*
10.2	Nonexclusive Field of Use License Agreement relating to OLED Technology for miniature, high resolution displays between the Eastman Kodak Company and FED Corporation dated March 29, 1999 (incorporated by reference to exhibit 10.6 to the Registrant's Annual Report on Form 10-K/A for the year ended December 31, 2000 filed on April 30, 2001).
10.3	Amendment Number 1 to the Nonexclusive Field of Use License Agreement relating to the LED Technology for miniature, high resolution displays between the Eastman Kodak Company and FED Corporation dated March 16, 2000 (incorporated by reference to exhibit 10.7 to the Registrant's Annual Report on Form 10-K/A for the year ended December 31, 2000 filed on April 30, 2001).
10.4	Lease between International Business Machines Corporation ("IBM") and FED Corporation dated May 28, 1999 (incorporated by reference to exhibit 10.9 to the Registrant's Annual Report on Form 10-K for the year ended December 31, 2000 filed on March 30, 2001).
10.5	Amendment Number 1 to the Lease between IBM and FED Corporation dated July 9, 1999 (incorporated by reference to exhibits 10.8 to the Registrant's Annual Report on Form 10-K for the year ended December 31, 2000 filed on March 30, 2001)

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- 10.6 Amendment Number 2 to the Lease between IBM and FED Corporation dated January 29, 2001 (incorporated by reference to exhibit 10.11 to the Registrant's Annual Report on Form 10-K for the year ended December 31, 2000 filed on March 30, 2001).
- 10.7 Amendment Number 3 to Lease between IBM and FED Corporation dated May 28, 2002 (incorporated by reference to the Company's Form S-1A as filed November 12, 2008).
- 10.8 Amendment Number 4 to Lease between IBM and FED Corporation dated December 14, 2004 (incorporated by reference to the Registrant's Current Report on Form 8-K filed on December 20, 2004).
- 10.09 Amended and Restated 2003 Stock Option Plan, filed September 1, 2005, as filed in the Registrant's Definitive Proxy Statement, incorporated herein by reference.*
- 10.10 2005 Employee Stock Purchase Plan, filed September 1, 2005, as filed in the Registrant's Definitive Proxy Statement, incorporated herein by reference.*
- 10.11 2004 Amended and Restated Non-Employee Compensation Plan, filed September 21, 2006, as filed in the Registrant's Definitive Proxy Statement incorporated herein by reference.*
- 10.12 Securities Purchase Agreement, dated December 18, 2008 (incorporated by reference to exhibit 99.1 of the Registrant's Current Report on Form 8-K filed on December 22, 2008).
- 10.13 Registration Rights Agreement, dated December 18, 2008 (incorporated by reference to exhibit 99.2 of the Registrant's Current Report on Form 8-K filed on December 22, 2008).
- 10.14 Exchange Agreement, dated December 18, 2008 (incorporated by reference to exhibit 99.3 of the Registrant's Current Report on Form 8-K filed on December 22, 2008).

10.15 Amendment
Number 6 to the
lease between
IBM and
eMagin
Corporation
dated May 27,
2009
(incorporated by
reference to the
Registrant's
Current Report
on Form 8-k
filed on June 19,
2009).

10.16 Lease between
Northup
Building LLC
and eMagin
dated May 28,
2009
(incorporated by
reference to the
Registrant's
Current Report
on Form 8-K
filed on June 19,
2009).

10.17 Loan and
Security
Agreement
between the
Company and
Access Business
Finance, LLC
(incorporated by
reference to
exhibit 99.1 of
the Registrant's
Current Report
on Form 8-K
filed on
September 11,
2009).

10.18 Amended and Restated Employment Agreement between the Company and Andrew G. Sculley dated as of December 31, 2013 (incorporated by reference to exhibit 99.1 of the Registrant's Current Report on Form 8-K filed on January 3, 2014).

10.19 Amended and Restated Employment Agreement between the Company and Paul Campbell dated as of December 31, 2013 (incorporated by reference to exhibit 99.2 of the Registrant's Form 8-K filed on January 3, 2014).

10.20 First Amendment of Loan and Security Agreement, dated as of September 1, 2011, between the Company and Access Business Finance L.L.C. (incorporated by

reference to
exhibit 99.1 of
the Registrant's
Current Report
on Form 8-K
filed on
September 30,
2011).

10.21 2011 Incentive
Stock Plan
(incorporated by
reference to
exhibit 99.1 of
the Registrant's
Current Report
on Form 8-K
filed on
November 8,
2011).*

10.22 2013 Incentive
Stock Plan, filed
April 2, 2013, as
filed in the
Registrant's
Definitive Proxy
Statement
incorporated
herein by
reference.*

10.23 Employment
Agreement,
dated as of April
30, 2013, by and
between the
Company and
Gabriel G.
Matus
(incorporated by
reference to
exhibit 99.1 of
the Registrant's
Form 8-K filed
on May 6,
2013).

10.24 Amendment
Number 7 to the
lease between

	IBM and eMagin Corporation dated May 2, 2014 (incorporated by reference to the Registrant's Current Report on Form 8-K filed on May 8, 2014).
10.25	Amended and Restated Employment Agreement between the Company and Jerome T. Carollo dated as of May 13, 2014 (incorporated by reference to exhibit 10.1 of the Registrant's Form 8-K filed on May 16, 2014).
21.1	Subsidiaries of the Company (incorporated by reference to exhibit 21.1 of the Registrant's Form 10-K filed on March 13, 2015).
23.1	Consent of Independent Registered Public Accounting Firm (filed herewith).
31.1	Certification by Chief Executive Officer pursuant

	to Sarbanes Oxley Section 302 (filed herewith).
31.2	Certification by Chief Financial Officer pursuant to Sarbanes Oxley Section 302 (filed herewith).
32.1	Certification by Chief Executive Officer pursuant to 18 U.S.C. Section 1350 (filed herewith).
32.2	Certification by Chief Financial Officer pursuant to 18 U.S.C. Section 1350 (filed herewith).
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. **

* Each of the Exhibits
noted by an asterisk is a
management compensatory
plan or arrangement.

** Filed as Exhibit 101 to
the Company's Annual
Report on Form 10-K filed
with the Commission on
March 13, 2015 and
incorporated herein by
reference.