

NEPHROS INC
Form SC 13D/A
August 21, 2008
UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 13D

Under the Securities Exchange Act of 1934

(Amendment No. 1)*

Nephros, Inc.

(Name of Issuer)

Common Stock, \$0.001 par value

(Title of Class of Securities)

640671103

(CUSIP Number)

Kristopher M. Hansen, Esq.

Stroock & Stroock & Lavan LLP

180 Maiden Lane

New York, New York 10038

(212) 806-5400

(Name, Address and Telephone Number of Person

Authorized to Receive Notices and Communications)

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August 13, 2008

(Date of Event which Requires Filing
of this Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this schedule because of §§240.13d-1(e), 240.13d-1(f) or 240.13d-1(g), check the following box o.

Note: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See §240.13d-7 for other parties to whom copies are to be sent.

* The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page.

The information required on the remainder of this cover page shall not be deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

Continued on following pages

1 Names of Reporting Persons

I.R.S. Identification Nos. of above persons (entities only).

STAGG CAPITAL GROUP LLC

2 Check the Appropriate Box if a Member of a Group (See Instructions)

a.

b.

3 SEC Use Only

4 Source of Funds (See Instructions)

N/A

5 Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e)

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6 Citizenship or Place of Organization

Delaware

	7	Sole Voting Power	0
Number of shares of Common Stock Beneficially Owned By Each Reporting Person With	8	Shared Voting Power	3,749,558
	9	Sole Dispositive Power	0
	10	Shared Dispositive Power	3,749,558

11 Aggregate Amount Beneficially Owned by Each Reporting Person

3,749,558

12 Check if the Aggregate Amount in Row (11) Excludes Certain shares of Common Stock
(See Instructions)

13 Percent of Class Represented By Amount in Row (11)

9.8%

14 Type of Reporting Person (See Instructions)

OO, IA

1 Names of Reporting Persons

I.R.S. Identification Nos. of above persons (entities only).

SCOTT A. STAGG

2 Check the Appropriate Box if a Member of a Group (See Instructions)

a.

b.

3 SEC Use Only

4 Source of Funds (See Instructions)

N/A

5 Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e)

[]

6 Citizenship or Place of Organization

United States

	7	Sole Voting Power	0
	8	Shared Voting Power	3,749,558
Number of shares of Common Stock Beneficially Owned By Each Reporting Person With	9	Sole Dispositive Power	0
	10	Shared Dispositive Power	3,749,558

11 Aggregate Amount Beneficially Owned by Each Reporting Person

3,749,558

12 Check if the Aggregate Amount in Row (11) Excludes Certain shares of Common Stock
(See Instructions)

[]

13 Percent of Class Represented By Amount in Row (11)

9.8%

14 Type of Reporting Person (See Instructions)

IN

Item 1. Security and Interest

This Statement on Schedule 13D (this "Statement") amends and supplements the Statement on Schedule 13D filed with the Securities and Exchange Commission on October 23, 2007 (the "Schedule 13D"), on behalf of (i) 3V Capital Management LLC, a Delaware limited liability company ("Management"), and (ii) Scott A. Stagg, a citizen of the United States, and relates to the common stock, par value \$0.001 per share (the "Common Stock"), of Nephros, Inc. (the "Company"), and is being filed on behalf of the Reporting Persons (as defined below). The address of the principal executive offices of the Company is 3960 Broadway, New York, New York 10032.

Management was the investment manager or advisor to 3V Capital Master Fund, Ltd., a British Virgin Islands business company (the "Offshore Account"), and Distressed/High Yield Trading Opportunities, Ltd., a British Virgin Islands business company (the "Managed Account"). Stagg Capital Group LLC, a Delaware limited liability company ("Stagg Capital") is the successor to Management. SV Special Situations Master Fund Ltd., a British Virgin Islands business company (the "Master Fund"), is the successor to the Offshore Account.

Capitalized terms used herein and not otherwise defined in this Statement have the meanings set forth in the Schedule 13D. Except as set forth herein, the Schedule 13D remains unchanged.

Item 2. Identity and Background

Item 2 of the Schedule 13D is hereby deleted in its entirety and replaced as follows:

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(a), (f) This Statement is filed by (i) Stagg Capital, a Delaware limited liability company and (ii) Mr. Stagg, a citizen of the United States (the persons mentioned in (i) and (ii) are referred to as the "Reporting Persons").

(b) The principal business address of each of Stagg Capital and Mr. Stagg is 3 Greenwich Office Park, Greenwich, CT 06831.

(c) The principal business of Stagg Capital is to serve as investment manager or adviser to, and to control the investing and trading in securities of, certain private investment funds and managed accounts, including the Master Fund. Mr. Stagg serves as the principal control person (directly or indirectly) of Stagg Capital and the Master Fund, and serves in a similar capacity to various other entities, all of which are engaged in investment or investment management activities.

(d) None of the Reporting Persons has, during the last five years, been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors).

(e) None of the Reporting Persons has, during the last five years, been a party to a civil proceeding of a judicial or administrative body of competent jurisdiction and as a result of such proceeding was or is subject to a judgment, decree or final order enjoining future violations of, or prohibiting or mandating activities subject to, federal or state securities laws or finding any violation with respect to such laws.

Item 5. Interest in Securities of the Issuer

Paragraphs (a), (b) and (c) of Item 5 of the Schedule 13D are hereby deleted in their entirety and replaced as follows:

(a) Following the automatic conversion of the Notes (as defined in the Schedule 13D) held by Master Fund and the Managed Account into shares of Common Stock on November 14, 2007, the Managed Account transferred all of the shares of Common Stock it held to the Master Fund. As of August 20, 2008, Master Fund holds 3,749,558 shares of Common Stock (the "Shares") for its own account. Management serves as the investment advisor to Master Fund and Mr. Stagg is the managing member of Management. By reason of such relationships, Management and Mr. Stagg may be deemed to be indirect beneficial owners of the Shares. The Shares represent 9.8% of the Company's outstanding shares of Common Stock. The percentage of class specified above (and in the cover pages to this Statement) is calculated on the basis of 38,165,380 shares of Common Stock issued and outstanding as reported in the Company's Form 10-Q filed with the Commission on August 14, 2008.

(b) Management and Mr. Stagg have the power to vote and dispose of the Shares. The filing of this Statement on Schedule 13D shall not be construed as an admission that any of the Reporting Persons is, for the purposes of Section 13(d) or 13(g) of the Act, the beneficial owner of any of the Shares. Pursuant to Rule 13d-4, Management and Mr. Stagg disclaim all such beneficial ownership.

(c) Except as disclosed below and the transfer of shares of Common Stock from the Managed Account to the Master Fund described in paragraph (a), no transactions in the Common Stock were effected by any of the Reporting Persons or the Master Fund during the past sixty days.

Open market transactions by Master Fund in Common Stock during the past sixty days are set forth below:

Date	Transaction	Shares	Price Per Share (\$)
6/16/08	Sell	22,050	0.67
6/17/08	Sell	6,050	0.702
6/18/08	Sell	4,100	0.6846
6/19/08	Sell	15,900	0.6693
6/20/08	Sell	4,400	0.6736
6/23/08	Sell	10,000	0.6
6/24/08	Sell	109,200	0.5338
6/25/08	Sell	500	0.572
7/3/08	Sell	63,900	0.5011
7/10/08	Sell	2,800	0.5541
7/18/08	Sell	61,100	0.4502
7/22/08	Sell	39,200	0.45
7/23/08	Sell	8,400	0.45
7/24/08	Sell	24,400	0.45
7/25/08	Sell	5,700	0.5386
7/28/08	Sell	1,700	0.5082
7/30/08	Sell	4,000	0.45

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8/1/08	Sell	2,300	0.4969
8/4/08	Sell	2,400	0.4483
8/5/08	Sell	9,900	0.402
8/7/08	Sell	8,500	0.4094
8/12/08	Sell	2,200	0.5
8/13/08	Sell	8,300	0.45

Item 7. Material to be Filed as Exhibits

Exhibit No. Description

1 Joint Filing Agreement, dated as of August 20, 2008, by and among the Reporting Persons.

SIGNATURES

After reasonable inquiry and to the best of my knowledge and belief, the undersigned certifies that the information set forth in this Statement is true, complete and correct. 36,000,000 51,850,912

Weighted-average shares outstanding - diluted

39,137,695 54,710,323 38,837,773 54,231,072

Table of Contents**AVG Technologies N.V.****Condensed Consolidated Statements of Cash Flows**

(In thousands)

	Three months ended September 30,		Nine months ended September 30,	
	2011	2012	2011	2012
OPERATING ACTIVITIES:				
Net income	\$ 6,660	\$ 18,963	\$ 99,677	\$ 40,916
Adjustments to reconcile net income to net cash provided by operating activities:				
Depreciation and amortization	2,922	4,279	7,943	12,652
Share-based compensation	1,189	2,727	3,012	10,753
Deferred income taxes	4,545	2,122	(51,997)	3,487
Change in the fair value of contingent consideration liabilities	(576)	(600)	(401)	(332)
Amortization of financing costs and loan discount	659	2,179	1,402	3,512
Dividend income	0	339	0	0
Loss from investment in equity affiliate	61	69	180	178
Loss (gain) on sale of property and equipment	61	(9)	232	(50)
Net change in assets and liabilities, excluding effects of acquisitions:				
Trade accounts receivable, net	1,893	(5,345)	5,496	(8,629)
Inventories	(136)	(271)	(125)	(42)
Accounts payable and accrued liabilities	2,030	1,577	1,377	8,089
Accrued compensation and benefits	919	(1,983)	299	488
Deferred revenue	(5,379)	3,272	3,037	9,540
Income taxes payable	77	(1,850)	949	(803)
Other assets	(5,926)	(257)	(7,907)	(1,468)
Other liabilities	770	54	(458)	(184)
Net cash provided by operating activities	9,769	25,266	62,716	78,107
INVESTING ACTIVITIES:				
Purchase of property and equipment and intangible assets	(3,842)	(1,572)	(7,753)	(10,264)
Proceeds from sale of property and equipment	(2)	9	100	83
Dividends received	0	(339)	0	0
Cash payments for acquisitions, net of cash acquired	(31,863)	(500)	(38,899)	(4,447)
Net cash provided by investing activities	(35,707)	(2,402)	(46,552)	(14,628)
FINANCING ACTIVITIES:				
Payment of contingent consideration	0	(11,240)	(2,784)	(11,240)
Payment of deferred purchase consideration	0	0	0	(1,900)
Proceeds from long-term debt net of discount	0	0	230,285	0
Debt issuance costs	(75)	0	(6,581)	0
Proceeds from issuance of ordinary shares	0	0	0	64,000
Share issuance costs	0	(262)	0	(8,302)
Proceeds from exercise of share options	0	0	0	347
Excess tax benefit	0	674	0	674
Repayment of principal on long-term borrowings	0	(46,675)	(1,125)	(76,050)
(Increase) decrease in restricted cash	0	34	1,333	(527)
Dividends paid	(1,802)	0	(228,091)	(2,555)

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Repurchase of own shares	0	(3,869)	0	(3,869)
Repurchases of share options from employees	0	(114)	0	(1,022)
Net cash provide by financing activities	(1,877)	(61,452)	(6,963)	(40,444)
Effect of exchange rate fluctuations on cash and cash equivalents	(901)	1,566	941	2,928
Change in cash and cash equivalents	(28,716)	(37,022)	10,142	25,963
Beginning cash and cash equivalents	102,004	123,725	63,146	60,740
Ending cash and cash equivalents	\$ 73,288	\$ 86,703	\$ 73,288	\$ 86,703
Supplemental cash flow disclosures:				
Income taxes paid	\$ (2,075)	\$ (3,440)	\$ (4,702)	\$ (6,028)
Interest paid	\$ (4,512)	\$ (3,842)	\$ (9,022)	\$ (12,715)
Supplemental non-cash disclosures:				
Issuance of ordinary shares on conversion of Class D preferred shares	\$ 0	\$ 0	\$ 0	\$ 191,954

Table of Contents**AVG Technologies N.V.****Reconciliation of GAAP Measures to Non-GAAP Measures****(In thousands, except revenue per average active user data)**

	Three months ended September 30,		Nine months ended September 30,	
	2011	2012	2011	2012
Net cash provided by operating activities	\$ 9,769	\$ 25,266	\$ 62,716	\$ 78,107
Less: Payments for property and equipment and intangible assets	(3,842)	(1,572)	(7,753)	(10,264)
Add: Interest expense net (1)	4,673	3,458	10,153	11,444
Unlevered free cash flow, adjusted	\$ 10,600	\$ 27,152	\$ 65,116	\$ 79,287

(1) The tax adjustment for interest expense is based on an assumed tax rate of approximately 10%, which is a blended rate based on internal estimates of what the Company's effective tax rate will be for the respective periods. Beginning in the quarter ended March 31, 2012, for interest expense the Company is using interest paid from the cash flow statement to calculate unlevered free cash flow. For prior periods, for interest expense the Company has continued to use interest expense from the income statement (which includes amortization of financing costs and loan discount). The Company has not adjusted the presentation for prior periods as this change in presentation of unlevered free cash flow, adjusted would not have had a material impact.

Revenue	\$ 71,170	\$ 95,253	\$ 198,093	\$ 260,761
Unlevered free cash flow, adjusted	10,600	27,152	65,116	79,287
Cash conversion	15%	29%	33%	30%
Total revenue (in thousands)	\$ 71,170	\$ 95,253	\$ 198,093	\$ 260,761
Active users at period end (in millions)	106	143	106	143
Average active users (in millions) (1)	102	136	103	126
Three/nine months revenue per average active user	\$ 0.70	\$ 0.70	\$ 1.92	\$ 2.07

	Twelve months ended September 30,	
	2011	2012
Total revenue (in thousands)	\$ 255,521	\$ 335,060
Active users at period end (in millions)	106	143
Average active users (in millions) (1)	102	125
Rolling twelve months revenue per average active user	\$ 2.51	\$ 2.68

(1) The number of average active users is calculated as the simple average of active users at the beginning of a period and the end of a period.

Table of Contents**AVG Technologies N. V.****Reconciliation of GAAP Measures to Non-GAAP Measures****(In thousands except per share data)**

	Three months ended September 30,		Nine months ended September 30,	
	2011	2012	2011	2012
Gross profit	\$ 61,986	\$ 79,911	\$ 174,289	\$ 220,950
Add back:				
- Share based compensation	5	(12)	17	1
- Acquisition amortization	897	1,051	1,588	3,264
Non-GAAP adjusted gross profit	\$ 62,888	\$ 80,950	\$ 175,894	\$ 224,215
Revenue	\$ 71,170	\$ 95,253	\$ 198,093	\$ 260,761
Non-GAAP adjusted gross profit margin	88%	85%	89%	86%
Operating expenses	\$ 46,357	\$ 50,915	\$ 114,366	\$ 151,279
Less:				
- Share-based compensation	(1,184)	(2,739)	(2,995)	(10,752)
- Acquisition amortization	(63)	(831)	(972)	(2,666)
Non-GAAP adjusted operating expenses	\$ 45,110	\$ 47,345	\$ 110,399	\$ 137,861
Operating income	\$ 15,629	\$ 28,996	\$ 59,923	\$ 69,671
Add back:				
- Share based compensation	1,189	2,727	3,012	10,753
- Acquisition amortization	960	1,882	2,560	5,930
Non-GAAP adjusted operating income	\$ 17,778	\$ 33,605	\$ 65,495	\$ 86,354
Revenue	\$ 71,170	\$ 95,253	\$ 198,093	\$ 260,761
Non-GAAP adjusted operating income margin	25%	35%	33%	33%
Net income	\$ 6,660	\$ 18,963	\$ 99,677	\$ 40,916
Add back:				
- Share based compensation	1,189	2,727	3,012	10,753
- Acquisition amortization	960	1,882	2,560	5,930
- Benefit (Provision) for income taxes	3,373	3,581	(52,212)	10,845
Adjusted profit before taxes	12,182	27,153	53,037	68,444
Less: Tax effect (1)	(1,705)	(3,786)	(7,425)	(9,582)
Non-GAAP adjusted net income	\$ 10,477	\$ 23,367	\$ 45,612	\$ 58,862

(1) Adjusted for impact of normalized tax rate of 14%.

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Weighted-average shares outstanding - diluted	39,138	54,710	38,838	54,231
Add back: Class D preferred shares	12,000	0	12,000	0
Non-GAAP fully diluted shares	51,138	54,710	50,838	54,231
Non-GAAP adjusted net income	\$ 10,477	\$ 23,367	\$ 45,612	\$ 58,862
Non-GAAP EPS, diluted	\$ 0.20	\$ 0.43	\$ 0.90	\$ 1.09

Share-Based Compensation

(In thousands)

	Three months ended September 30,		Nine months ended September 30,	
	2011	2012	2011	2012
Cost of revenue	\$ (5)	\$ 12	\$ (17)	\$ (1)
Sales and Marketing	586	(582)	(614)	(1,687)
Research and Development	(222)	(214)	(1,019)	(1,274)
General and Administrative	(1,548)	(1,943)	(1,362)	(7,791)
Share-based compensation	\$ (1,189)	\$ (2,727)	\$ (3,012)	\$ (10,753)

Acquisition Amortization

(In thousands)

	Three months ended September 30,		Nine months ended September 30,	
	2011	2012	2011	2012
Cost of revenue	\$ (897)	\$ (1,051)	\$ (1,588)	\$ (3,264)
Sales and Marketing	(338)	(829)	(917)	(2,660)
Research and Development	275	(2)	(55)	(6)
Acquisition amortization	\$ (960)	\$ (1,882)	\$ (2,560)	\$ (5,930)

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AVG Technologies N.V.

Reconciliation of GAAP Measures to Non-GAAP Measures

Notes to Non-GAAP Adjustments

Tax adjustment

The Company's profit and loss tax charge varies from period to period and has shown significant variations from its cash tax charge. In particular, the Company's entry into an innovation tax regime in the Netherlands resulted in a significant tax credit in June 2011, which will be reversed in future periods. In order to remove the period to period impact of these variations, the Company has used an estimated normalized tax rate of approximately 14% in its historic financial reporting and future projections to better reflect the core operational changes in the business. The normalized tax rate of approximately 14% is based on an estimate of the Company's future cash tax rate as well as its recent cash and income statement tax charges. The tax rate reflected on the income statement for 2009 and 2010 was on average approximately 12.7% and the tax paid reflected on the cash flow statement in 2011 was approximately 13% with the tax rate reflected on the cash flow statement over the last three full fiscal years being approximately 17%.

Preferred Share Adjustment

During the 2011 fiscal year the Company had 12 million preferred shares which were entitled to a preferred dividend of approximately \$1.8 million per calendar quarter, as well as their pro rata amount of net income assuming distribution to each separate class of shareholder. These shares were excluded from calculations of net income available to ordinary shareholders. At the time of the Initial Public Offering these shares converted to ordinary shares on a 1 for 1 basis, and preferred dividends are no longer payable. In order to reflect the underlying income attributable to ordinary shareholders in the non-GAAP calculation of adjusted net income per diluted share, the Company has included net income available to all shareholders, including the holders of preferred shares. The Company believes that these non-GAAP adjustments will allow it to present core financial trends more consistently during the periods before and after conversion of the preferred shares to ordinary shares.

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Signatures

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

AVG TECHNOLOGIES N.V.

Date: October 31, 2012

By: /s/ John Little
Name: John Little
Title: Chief Financial Officer and Managing Director