

MAREX COM INC
Form 8-K
September 13, 2002

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) August 31, 2002

MAREX, INC.

(Exact name of registrant as specified in charter)

Florida

000-25129

65-0354269

(State or other jurisdiction of incorporation)

(Commission File Number)

(IRS Employer Identification No.)

2701 South Bayshore Drive, 5th Floor, Miami, Florida

33133

(Address of principal executive offices)

(Zip Code)

Registrant's telephone number including area code: (305) 285-2003

Item 2. ACQUISITION OR DISPOSITION OF ASSETS.

On August 15, 2002, Marex, Inc., a Florida corporation (the Company), and Software Support Team, Inc., a Florida corporation and a wholly owned subsidiary of the Company (SST), entered into an Asset Purchase Agreement (the Agreement) with Exuma Technologies, Inc., a Florida corporation (Exuma), pursuant to which SST sold substantially all of its assets related to the operations of SST's DockMaster software (the Transaction).

Under the terms of the Agreement, the total consideration received by the Company was \$1,526,909 (the Purchase Price), of which (i) \$279,302 was paid to the Company in cash, (ii) \$1,136,108 of seller financed notes payable was assumed by Exuma, and (iii) \$111,499 of operating liabilities was assumed by Exuma.

The assets disposed of included accounts receivable, prepaid expenses, inventory and software development costs. The liabilities assumed included a seller-financed note payable and operating liabilities such as accounts payable and accrued expenses and capital lease obligations.

The Purchase Price, as well as the other terms and conditions of the Agreement, were determined as a result of arm's-length negotiations among representatives of the parties to the Agreement.

The foregoing description of the Agreement is qualified in its entirety by reference to the text of the Agreement, a copy of which has been filed as Exhibit 2.1 to this Form 8-K and is incorporated herein by reference.

On July 24, 2002 and August 16, 2002, the Company issued press releases relating to the Transaction, copies of which are attached hereto as Exhibit 99.2 and are incorporated herein by reference.

Item 7. FINANCIAL STATEMENTS AND EXHIBITS.

(a) Financial Statements of Businesses Acquired.

Not applicable.

(b) Proforma Financial Information.

On August 31, 2002, the Company and SST sold substantially all of SST's assets related to the operations of SST's DockMaster software to Exuma, an unrelated third party. The assets disposed of included accounts receivable, prepaid expenses, inventory, and software development costs. The liabilities assumed included a seller-financed note payable and operating liabilities such as accounts payable and accrued expenses and capital lease obligations.

Pro forma financial information is presented below which discloses the changes necessary to the balance sheet at December 31, 2001 as if the transaction was consummated on that date, and to the statement of operations for the year ended December 31, 2001 and the six months ended June 30, 2002 as if the transaction had occurred on January 1, 2001. The pro forma results for the statement of operations exclude material non-recurring charges directly attributable to the transaction (see Note 15). The proforma adjustments are based on available information and upon certain assumptions that the Company believes are reasonable under the circumstances.

MAREX, INC. AND SUBSIDIARIES

CONDENSED PRO FORMA BALANCE SHEET
JUNE 30, 2002

| | Consolidated Results As Reported | Disposition of Assets Inc/(Dec) | Pro Forma Results |
|----------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|------------------------------------|---------------------|
| | | (Unaudited) | (Unaudited) |
| ASSETS | | | |
| Current assets: | | | |
| Cash and cash equivalents | \$ 720,538 | \$ 221,344 | \$ 941,882 |
| Accounts receivable, net | 149,294 | (149,294) | |
| Inventories | 8,303 | (8,303) | |
| Prepaid expenses and other current assets | 163,028 | (2,925) | 160,103 |
| Loan to related party | 441,680 | | 441,680 |
| | <u>1,482,843</u> | <u>60,822</u> | <u>1,543,665</u> |
| Total current assets | | | |
| Property and equipment, net | 571,404 | (52,243) | 519,161 |
| | <u>571,404</u> | <u>(52,243)</u> | <u>519,161</u> |
| Other assets: | | | |
| Software development costs, net | 2,000,548 | (1,447,293) | 553,255 |
| Goodwill | 304,086 | (304,086) | |
| Deposits and other assets | 195,066 | (19,547) | 175,519 |
| | <u>2,499,700</u> | <u>(1,770,926)</u> | <u>728,774</u> |
| Total other assets | | | |
| Total assets | <u>\$ 4,553,947</u> | <u>\$(1,762,347)</u> | <u>\$ 2,791,600</u> |
| LIABILITIES AND SHAREHOLDERS EQUITY | | | |
| Current liabilities: | | | |
| Current portion of seller-financed note payable | \$ 705,411 | \$ (705,411) | \$ |
| Current portion of capital lease obligations | 103,020 | (11,255) | 91,765 |
| Accounts payable and accrued expenses | 1,345,384 | (273,926) | 1,071,458 |
| | <u>2,153,815</u> | <u>(990,592)</u> | <u>1,163,223</u> |
| Total current liabilities | | | |
| Long-term liabilities: | | | |
| Seller-financed note payable, net of current portion | 368,775 | (368,775) | |
| Capital lease obligations, net of current portion | 30,754 | (17,442) | 13,312 |
| | <u>399,529</u> | <u>(386,217)</u> | <u>13,312</u> |
| Total long-term liabilities | | | |
| Total liabilities | <u>2,553,344</u> | <u>(1,376,809)</u> | <u>1,176,535</u> |
| Shareholders' equity: | | | |
| Series A1 Convertible Preferred Stock, par value \$.01 per share, 1,000,000 shares authorized, 266,750 shares issued and outstanding as of June 30, 2002 | 26,675,000 | | 26,675,000 |
| Common Stock, par value \$.01 per share, 25,000,000 shares authorized, 7,635,848 shares issued and outstanding as of June 30, 2002 | 76,358 | | 76,358 |

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| | | | |
|--------------------------------------------|-----------------------------|-----------------------------|-----------------------------|
| Additional paid-in capital | 48,872,172 | | 48,872,172 |
| Accumulated deficit | (73,622,927) | (385,538) | (74,008,465) |
| | <u> </u> | <u> </u> | <u> </u> |
| Total shareholders' equity | 2,000,603 | (385,538) | 1,615,065 |
| | <u> </u> | <u> </u> | <u> </u> |
| Total liabilities and shareholders' equity | \$ 4,553,947 | \$(1,762,347) | \$ 2,791,600 |
| | <u> </u> | <u> </u> | <u> </u> |

See Notes to Condensed Pro Forma Financial Statements

MAREX, INC. AND SUBSIDIARIES

CONDENSED PRO FORMA STATEMENT OF OPERATIONS
TWELVE MONTHS ENDED DECEMBER 31, 2001

| | Audited Results As Reported | Disposition of Assets Inc/(Dec) | Pro Forma Results |
|--------------------------------------------------------------------------|--------------------------------|---------------------------------------|-------------------|
| | | (Unaudited) | (Unaudited) |
| Net sales | \$ 6224731 | \$ (361,420) | \$ 261,311 |
| Costs and expenses: | | | |
| Cost of product sales | 102,926 | (102,926) | |
| Product support and development | 5,893,133 | (381,641) | 5,511,492 |
| Selling and marketing | 3,471,697 | (130,375) | 3,341,322 |
| General and administrative | 3,093,931 | (68,221) | 3,025,710 |
| Impairment of software development costs | 5,864,613 | | 5,864,613 |
| Stock-based compensation | 476,140 | | 476,140 |
| Fair value of warrants | 1,764,402 | | 1,764,402 |
| Total costs and expenses | 20,666,842 | (683,163) | 19,983,679 |
| Loss from operations | (20,044,111) | 321,743 | (19,722,368) |
| Other income (expense): | | | |
| Interest income | 472,261 | (737) | 471,524 |
| Interest expense | (55,675) | 22,246 | (33,429) |
| Other | (237) | (335) | (572) |
| Total other income (expense) | (416,349) | 21,174 | 437,523 |
| Net loss | \$(19,627,762) | \$ 342,917 | \$(19,284,845) |
| Net loss per share, basic and diluted | \$ (2.67) | | \$ (2.63) |
| Basic and diluted weighted average shares of Common Stock outstanding | 7,344,075 | | 7,344,075 |

See Notes to Condensed Pro Forma Financial Statement

MAREX, INC. AND SUBSIDIARIES

CONDENSED PRO FORMA STATEMENT OF OPERATIONS
SIX MONTHS ENDED JUNE 30, 2002

| | Unaudited Results As Reported | Disposition of Assets Inc/(Dec) | Pro Forma Results |
|--------------------------------------------------------------------------|----------------------------------|---------------------------------------|-----------------------------|
| | <u> </u> | <u> </u> | <u> </u> |
| | | (Unaudited) | (Unaudited) |
| | <u> </u> | <u> </u> | <u> </u> |
| Net sales | \$ 958,084 | \$ (943,059) | \$ 15,025 |
| Costs and expenses: | | | |
| Cost of product sales | 135,022 | (135,022) | |
| Product support and development | 1,953,161 | (786,626) | 1,166,535 |
| Selling and marketing | 989,966 | (338,678) | 651,288 |
| General and administrative | 1,950,579 | (144,608) | 1,805,971 |
| Impairment of software development costs | 468,546 | | 468,546 |
| Stock-based compensation | 117,405 | | 117,405 |
| | <u> </u> | <u> </u> | <u> </u> |
| Total costs and expenses | 5,614,679 | (1,404,934) | 4,209,745 |
| | <u> </u> | <u> </u> | <u> </u> |
| Loss from operations | (4,656,595) | 461,875 | (4,194,720) |
| | <u> </u> | <u> </u> | <u> </u> |
| Other income (expense): | | | |
| Interest income | 36,818 | (2,044) | 34,774 |
| Interest expense | (46,059) | 20,354 | (25,705) |
| Other | 6,914 | 95 | 7,009 |
| | <u> </u> | <u> </u> | <u> </u> |
| Total other income (expense) | (2,327) | 18,405 | 16,078 |
| | <u> </u> | <u> </u> | <u> </u> |
| Net loss | \$ (4,658,922) | \$ 480,280 | \$ (4,178,642) |
| | <u> </u> | <u> </u> | <u> </u> |
| Net loss per share, basic and diluted | \$ (0.61) | | \$ (0.55) |
| | <u> </u> | | <u> </u> |
| Basic and diluted weighted average shares Of Common Stock outstanding | 7,594,199 | | 7,594,199 |
| | <u> </u> | | <u> </u> |

See Notes to Condensed Pro Forma Financial Statements

MAREX, INC. AND SUBSIDIARIES

NOTES TO CONDENSED PRO FORMA FINANCIAL STATEMENTS

1. Basis of Presentation

These are unaudited pro forma financial statements and include all adjustments which, in the opinion of management, are necessary in order to make the pro forma financial statements not misleading. These financial statements have been prepared in accordance with the instructions to Form 8-K and do not include certain disclosures required by accounting principles generally accepted in the United States of America. Pro Forma results for the six months ended June 30, 2002 and the year ended December 31, 2001 are not necessarily indicative of the results that may be expected for the year ending December 31, 2002 or future periods.

2. Cash and Cash Equivalents

The adjustment of \$221,344 reflects the net cash that would have been received if the transaction would have been consummated on December 31, 2001.

3. Accounts Receivable, Net

The adjustment of \$149,294 reflects the sale of net accounts receivable associated with the transaction, which principally consist of accounts receivable related to the sales of DockMaster software.

4. Property and Equipment, Net

The adjustment of \$52,243 reflects the sale of net property and equipment associated with the transaction, principally office equipment and leasehold improvements.

5. Software Development Costs, Net

The adjustment of \$1,447,293 reflects the sale of the DockMaster software and software reseller agreements.

6. Goodwill

The adjustment of \$304,086 reflects the elimination of goodwill associated with the Company's acquisition of Software Support Team, Inc. in October 2001.

7. Seller-Financed Note Payable

The adjustments of \$705,411 and \$368,775 reflect the elimination of a seller-financed note payable related to the Company's acquisition of Software Support Team, Inc. in October 2001. The seller-financed note payable was assumed by Exuma in the transaction.

8. Accounts Payable and Accrued Expenses

The adjustment of \$273,936 reflects the assumption of operating liabilities by Exuma in the amount of \$323,936 less the Company's estimate of transaction costs for legal and accounting fees.

9. Net Sales

The adjustments of \$943,059 for the six months ended June 30, 2002, and \$361,420 for the twelve months ended December 31, 2001 reflect the elimination of the reported sales directly associated with the disposed assets.

10. Cost of Product Sales

The adjustments of \$135,022 for the six months ended June 30, 2002, and \$102,926 for the twelve months ended December 31, 2001 reflect the elimination of the reported cost of product sales directly associated with the disposed assets.

11. Product Support and Development

The adjustments of \$786,626 for the six months ended June 30, 2002, and \$381,641 for the twelve months ended December 31, 2001 reflect the elimination of the reported product support and development expenses, inclusive of amortization related to software development costs and depreciation expense related to disposed assets, directly associated with product support and development activities associated with the disposed assets.

12. Selling and Marketing

The adjustments of \$338,678 for the six months ended June 30, 2002 and \$130,375 for the twelve months ended December 31, 2001 reflect the elimination of the reported selling and marketing expenses, inclusive of depreciation expense related to disposed assets, directly associated with selling and marketing activities associated with the disposed assets.

13. General and Administrative

The adjustments of \$144,608 for the six months ended June 30, 2002, and \$68,221 for the twelve months ended December 31, 2001 reflect the elimination of the reported general and administrative expenses, inclusive of depreciation expense related to disposed assets, directly associated with general and administrative activities associated with the disposed assets.

14. Interest Expense

The adjustments of \$20,354 for the six months ended June 30, 2002 and \$22,246 for the twelve months ended December 31, 2001 reflect the elimination of the reported interest expense primarily related to the seller-financed note payable assumed by Exuma as a direct result of the transaction.

15. Material Nonrecurring Item

The pro forma results on the statement of operations are intended to present the continuing operations of the Company, before nonrecurring charges directly attributable to the disposition. This nonrecurring item consists of the loss recognized in the transaction, which is approximately \$155,000 as of August 31, 2002. This nonrecurring item is reflected in the pro forma balance sheet as of December 31, 2001. Accordingly, the \$385,538 adjustment to accumulated deficit in the pro forma balance sheet reflects the loss directly attributable to the transaction as if the transaction would have been consummated on December 31, 2001.

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(c) Exhibits.

- 2.1 Asset Purchase Agreement by and between Exuma Technologies, Inc., a Florida corporation, Software Support Team, Inc., a Florida corporation, and Marex, Inc., a Florida corporation, dated as of August 15, 2002.*

The following exhibits and schedules to the Asset Purchase Agreement have been omitted:

| | |
|---------------|------------------------------------------------------------------|
| Exhibit A | Bill of Sale |
| Exhibit B | Assignment of Trade Names and Intellectual Property Rights |
| Exhibit C | Assignment and Assumption of Contracts |
| Exhibit D | Assignment and Assumption of Real Property Lease |
| Exhibit E | Assignment of Representation and Warranties |
| Exhibit F | Assumption of Liabilities |
| Exhibit G-1 | Promissory Notes made payable to Arthur Peacock |
| Exhibit G-2 | Promissory Notes made payable to Albert Peacock |
| Exhibit H | Security Agreement in favor of Arthur Peacock and Albert Peacock |
| Schedule 2 | Assets |
| Schedule 3 | Excluded Assets |
| Schedule 4 | Liabilities |
| Schedule 5(b) | Allocation of Purchase Price |
| Schedule 8(b) | Financial Information |
| Schedule 8(f) | Taxes |
| Schedule 8(l) | Contracts |
| Schedule 8(m) | Equipment and Inventory |
| Schedule 8(n) | Leases |
| Schedule 8(p) | Employees |
| Schedule 8(s) | Intellectual Property |
| Schedule 8(t) | Bank Accounts |

99.2 Press Releases, dated July 24, 2002 and August 16, 2002.

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* Pursuant to Rule 601(b)(2) of Regulation S-K, certain exhibits and schedules have been omitted from this filing. The Company agrees to furnish supplementally a copy of any omitted exhibit or schedule to the Securities and Exchange Commission upon request.

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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.

MAREX, INC.

Dated: September 13, 2002

By: /s/ David A. Schwedel

David A. Schwedel
Chief Executive Officer

EXHIBIT INDEX

| Exhibit No. | Description |
|-------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2.1 | Asset Purchase Agreement by and between Exuma Technologies, Inc., a Florida corporation, Software Support Team, Inc., a Florida corporation, and Marex, Inc., a Florida corporation, dated as of August 15, 2002.*(8) |
| 3.1 | Amended and Restated Articles of Incorporation of the Company (1) |
| 3.2 | Amended and Restated Bylaws of the Company (1) |
| 3.3 | Articles of Amendment to Amended and Restated Articles of Incorporation of the Company (3) |
| 3.4 | Articles of Amendment to Amended and Restated Articles of Incorporation of the Company (7) |
| 4.1 | Certificate of Designation for the Series A1 Convertible Preferred Stock, par value \$.01 (3) |
| 4.2 | Securities Purchase Agreement among Marex, Inc. and Certain Purchasers, dated March 2, 2000 (3) |
| 4.3 | Registration Rights Agreement among Marex, Inc. and Certain Purchasers, dated March 2, 2000 (3) |
| 10.1 | 1996 Incentive Stock Option Plan, as amended (1) |
| 10.2 | Amended and Restated 1997 Stock Option Plan (2) |
| 10.3 | Company's Office Lease, 2701 South Bayshore Dr., Miami, FL, as amended (4) |
| 10.4 | Company's Office Lease, 5835 Blue Lagoon Dr., Miami, FL, as amended (5) |
| 10.5 | Stock Purchase Agreement among Marex, Inc., Software Support Team, Inc., Arthur M. Peacock and Albert L. Peacock, dated September 21, 2001 (6) |
| 99.1 | Certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, dated August 14, 2002(7) |
| 99.2 | Press Releases, dated July 24, 2002 and August 16, 2002.(8) |

(1) Previously filed as an exhibit to the Company's Form 10-SB and Amendment No. 1 to Form 10-SB.

(2) Previously filed as part of the Company's Form DEFS14A filed on October 19, 1999.

(3) Previously filed as an exhibit to the Company's Form 8-K filed on March 8, 2000.

(4) Previously filed as an exhibit to the Company's Form 10-K filed on March 23, 2000.

(5) Previously filed as an exhibit to the Company's Form 10-K filed on March 23, 2001.

(6) Previously filed as an exhibit to the Company's Form 8-K filed on October 16, 2001.

(7) Previously filed as an exhibit to the Company's Form 10-Q filed on August 14, 2001.

(8) Filed herewith.

* Pursuant to Rule 601(b)(2) of Regulation S-K, certain exhibits and schedules have been omitted from this filing. The Company agrees to furnish supplementally a copy of any omitted exhibit or schedule to the Securities and Exchange Commission upon request.