

PERVASIP CORP
Form 8-K
June 21, 2011

UNITED STATES
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 15, 2011

PERVASIP CORP.
(Exact name of registrant as specified in its charter)

New York
(State or other
jurisdiction of incorporation)

000-04465
(Commission File No.)

13-2511270
(I.R.S. Employer Identification
No.)

75 South Broadway, Suite 400
White Plains, NY 10601
(Address of principal executive offices)

(914) 620-1500
(Registrant's telephone number, including area code)

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 14-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13-4(e) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01 Entry into a Material Definitive Agreement.

On June 15, 2011, Pervasip Corp. (the “Company”) entered into a securities settlement agreement (the “Settlement Agreement”) with a private individual (“Investor”), in connection with the conversion of certain debt into shares of the Company’s common stock. Under the terms of the Settlement Agreement, the Investor converted \$224,000 of the debt into 2,800,000 shares of the Company’s common stock, a conversion rate of \$0.08 per share.

The description of the Settlement Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of such Settlement Agreement, a copy of which is attached hereto as Exhibit 10.1 to this Current Report on Form 8-K and incorporated herein by reference.

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 herein by reference.

The shares of common stock issued pursuant to the Settlement Agreement were not registered under the Securities Act of 1933, as amended (the “Securities Act”), or any state securities laws due to exemptions from registration under the Securities Act pursuant to Section 4(2) and Rule 506 of Regulation D promulgated thereunder.

Item 8.01 Other Events.

On June 21, 2011, the Company issued a press release announcing the debt conversion with the Investor. A copy of the press release is filed as Exhibit 99.1 to this Current Report on Form 8-K and incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits.

Exhibit No.	Description
10.1	Form of Securities Settlement Agreement by and between Pervasip Corp. and Investor
99.1	Press Release, dated June 21, 2011

SIGNATURES

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

PERVASIP CORP.

Date: June 21, 2011

By: /s/ Paul H. Riss
Name: Paul H. Riss
Title: Chief Executive
Officer

Exhibit 10.1

SECURITIES SETTLEMENT AGREEMENT

This security settlement agreement ("Agreement") is by and between _____ ("CLAIMANT") and the undersigned ("COMPANY" or "DEBTOR") and is entered into as of the effective date below, all with reference to the following facts, which the parties agree are true and correct:

RECITALS

CLAIMANT owns certain debt rights of the COMPANY from October 6, 2009 and prior;

CLAIMANT is a creditor of the COMPANY entitled to payment and seeks conversion of outstanding debt securities;

DEBTOR seeks to avoid dispute, retire debt from its books and records, make effort to improve its financial picture for potential acquisition and future fundings by eliminating or limiting the extent of debt the DEBTOR faces, and allow such conversion rights desired by the CLAIMANT;

THEREFORE, THE PARTIES AGREE TO SETTLE, AND THE PURPOSE OF THIS AGREEMENT IS TO REFLECT SUCH SETTLEMENT;

NOW THEREFORE, the parties hereto hereby represent, warrant, and covenant with and to each other and confirm all of the above and following to professionals, and the transfer agent of COMPANY and others to whom it may concern, as follows:

1. Obligations Owed. Reference is made to the debt securities identified on the signature page hereof (the "Debt"). As to the Debt, any past or current dispute, potential defenses and disputed considerations, etc., are waived by the COMPANY, and the debt obligation is hereby confirmed as owed.

2. Exchange. CLAIMANT and the COMPANY hereby agree to confirm the exchange of the Debt for securities of the COMPANY as follows: based upon the provisions of this Agreement the COMPANY is to repay an amount equal to the principal amount of the Debt ("Principal") with interest at a rate set below per annum ("Interest") by the "Maturity Date" (below) with conversion rights to the CLAIMANT so that, at the election of the CLAIMANT, it may convert the Principal in whole or part from time to time into shares of common stock in the COMPANY (the "Shares"). This obligation of the COMPANY is in the nature of a debenture, but in lieu of issuing a debenture form, the COMPANY shall honor the exchange, payment obligation and conversion rights per this Agreement. Thus, concurrently with the execution of this Agreement, CLAIMANT surrenders hereby the Debt and its interest in the Debt strictly for the payment, conversion, Shares and related rights under this Agreement. (CLAIMANT will endeavor to use best efforts, for non material file recording, to deliver to the COMPANY any promissory notes, commercial paper, or other evidences of the Debt but such ministerial obligation shall not be a condition to the conversion, Shares, and enforcement rights of this Agreement by CLAIMANT.) With reference to Rule 144 promulgated under the Securities Act of 1933, as amended, the exchange hereby is made without any additional consideration applicable.

3. Payment of Principal and Interest. The COMPANY promises to pay to CLAIMANT the Principal and Interest on the Maturity Date, or sooner if required hereby, unless to the extent of any completed conversion of Principal and or Interest as stated herein.

THE COMPANY MAY PREPAY ANY PORTION OF THE PRINCIPAL AMOUNT AT 115% OF SUCH AMOUNT OR MAXIMUM PER LAW, WHICHEVER IS LOWER, ALONG WITH ANY ACCRUED INTEREST AT ANY TIME UPON THREE DAYS WRITTEN NOTICE TO THE CLAIMANT.

4, Events of Default "Event of Default," wherever used herein, means any one of the following events (whatever the reason and whether it shall be voluntary or involuntary or effected by operation of law or pursuant to any judgment, decree or order of any court, or any order, rule or regulation of any administrative or governmental body):

(A) any default in the payment of the principal of, interest on, or liquidated damages in respect to this Agreement, free of any claim of subordination, as and when the same shall become due and payable (whether on a Conversion Date or the Maturity Date or by acceleration or otherwise); and or

(B) the COMPANY shall commence, or there shall be commenced against it, a case under any applicable bankruptcy or insolvency laws as now or hereafter in effect or any successor thereto, or the COMPANY commences any other proceeding under any reorganization, arrangement, adjustment of debt, relief of debtors, dissolution, insolvency or liquidation or similar law of any jurisdiction whether now or hereafter in effect relating to the COMPANY is commenced against the COMPANY; or the COMPANY is adjudicated insolvent or bankrupt; or any order of relief or other order approving any such case or proceeding is entered; or the COMPANY suffers any appointment of any custodian or the like for it or any substantial part of its property which continues undischarged or unstayed for a period of 5 Business Days; or the COMPANY makes a general assignment for the benefit of creditors; or the COMPANY shall call a meeting of its creditors with a view to arranging a composition, adjustment or restructuring of any debt or the COMPANY or shall by any act or failure to act expressly indicate its consent to, approval of or acquiescence in any of the foregoing or any corporate or other action is taken by the COMPANY or any subsidiary thereof for the purpose of effecting any of the foregoing; and or

(C) the COMPANY shall fail to file all reports required to be filed by it with the SEC pursuant to Section 13 or 15(d) of the Securities and Exchange Act of 1934, as amended (the "Exchange Act"), or otherwise required by the Exchange Act or as required to be deemed a current public company as to disclosure including on any exchange or over the counter trading medium and or the COMPANY is in, or accused of, being in violation of any law or regulation by written demand, court proceeding or similarly; and or

(D) the material breach of any promise or representation in this Agreement and or related representation or agreement made by the COMPANY and or any of its officers, which shall include, without limitation, the failure to deliver shares of common stock due CLAIMANT on a conversion within four Business Days from the date of conversion or sooner, which delivery must be otherwise made per reasonable specifications of the CLAIMANT (e.g. to brokerage firm account).

If any Event of Default occurs and is continuing, the full Principal amount of this Agreement, together with Interest and other amounts owing in respect thereof, shall become immediately due and payable in cash except the CLAIMANT may elect any part thereof to be paid in Shares as part of any conversion hereunder in which case such Shares shall be due.

5. Conversion of Debt into Common Stock.

(A) At any time until both the Principal and Interest is paid in full and all conversions have been honored by the COMPANY and this Agreement is no longer outstanding, this Agreement, including interest and principal, shall be convertible into shares of Common Stock in the COMPANY at a price of \$0.08 per share. The CLAIMANT shall effect conversions by delivering to the COMPANY the form of Notice of Conversion attached hereto as Exhibit A (a "Notice of Conversion"), specifying the date on which such conversion is to be effected (a "Conversion Date") and

Shares shall then be delivered by the COMPANY within four Business Days. If no Conversion Date is specified in a Notice of Conversion, the Conversion Date shall be the date that such Notice of Conversion is provided hereunder. To effect conversions hereunder, the CLAIMANT shall not be required to otherwise physically surrender anything to the COMPANY. CLAIMANT shall not sell any Shares until COMPANY has delivered the Shares to CLAIMANT'S brokerage account. CLAIMANT agrees that delivery of these shares shall eliminate all amounts due to CLAIMANT.

(B) The COMPANY covenants that it will at all times reserve and keep available out of its authorized and unissued shares of Common Stock solely for the purpose of issuance upon conversion of this Agreement.

(C) Any notice or other communication or deliveries hereunder shall be deemed given and effective on the earliest of (i) the date of transmission, (ii) the date after the date of transmission, if such notice or communication is delivered via facsimile, (iii) the first Business Day following the date of mailing, if sent by nationally recognized overnight courier service, or (iv) upon actual receipt by the party to whom such notice is required to be given.

Notwithstanding anything to the contrary herein contained, the CLAIMANT may not convert this Agreement to the extent such conversion would result in the CLAIMANT, together with any affiliate thereof, beneficially owning (as determined in accordance with Section 13(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act") and the rules promulgated thereunder) in excess of 4.99% of the then issued and outstanding shares of Common Stock, including shares issuable upon such conversion and held by the CLAIMANT after application of this section.

6. Definitions, unless otherwise defined herein:

"Business Day" means any day except Saturday, Sunday and any day which shall be a federal legal holiday in the United States or a day on which banking institutions in the State of New York are authorized or required by law or other government action to close. Whenever any payment or other obligation hereunder shall be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day.

"Common Stock" means the common stock of the COMPANY and stock of any other class into which such shares may hereafter have been reclassified or changed.

"Person" means a corporation, an association, a partnership, organization, a business, an individual, a government or political subdivision thereof or a governmental agency.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

7. Claimant Status. CLAIMANT represents and the COMPANY confirms such representation, as follows:

CLAIMANT believes it is not an affiliate, now or by way of this Agreement, and relies upon the COMPANY knowledge of the members of the board of directors and officers in such regard (COMPANY represents to CLAIMANT that it has concluded and CLAIMANT may rely upon same, that CLAIMANT is not and will not be, by way of this Agreement, an affiliate of the COMPANY.); and

CLAIMANT is (i) an "accredited investor" as that term is defined in Rule 501 of the General Rules and Regulations under the Securities Act of 1933, as amended, the "Act" by reason of Rule 501 and (ii) able, by reason of the business and financial experience of its officers (if an entity) and professional advisors, as a sophisticated investor.

8. Other Concerns. CLAIMANT has no responsibility for action or inaction by the DEBTOR nor faced or faces or will face responsibility for determinations of management of the COMPANY. The parties also recognize and acknowledge that as a result of this Agreement, the parties have entered into a confidential relationship as to this document, except to the requirements of law to the contrary, and they have negotiated and entered into this Agreement in good faith and without any duress. COMPANY agrees and represents that notwithstanding anything, including emails and meetings and calls, if any, at no time is any non public information about or relating to the COMPANY supplied to the CLAIMANT by the COMPANY or any affiliate or representative. CLAIMANT shall not sell Shares

in excess of 20% of the daily trading volume of the Shares and CLAIMANT shall not short sell, hedge, or engage in any strategies to depress the trading price of the Shares.

9. Miscellaneous.

- A. **Gender.** Wherever the context shall require, all words herein in the masculine gender shall be deemed to include the feminine or neuter gender, all singular words shall include the plural, and all plural shall include the singular.
- B. **Severability.** If any provision hereof is deemed unenforceable by a court of competent jurisdiction, the remainder of this Agreement, and the application of such provision in other circumstances shall not be affected thereby.
- C. **Further Cooperation.** From and after the date of this Agreement, each of the parties hereto agrees to execute whatever additional documentation or instruments as are necessary to carry out the intent and purposes of this Agreement or to comply with any law. However, this shall not require any additional documents or acts by CLAIMANT for CLAIMANT to obtain and dispose of the subject shares.
- D. **Waiver.** No waiver of any provision of this Agreement shall be valid unless in writing and signed by the waiving party. The failure of any party at any time to insist upon strict performance of any condition, promise, agreement or understanding set forth herein, shall not be construed as a waiver or relinquishment of any other condition, promise, agreement or understanding set forth herein or of the right to insist upon strict performance of such waived condition, promise, agreement or understanding at any other time.
- E. **Expenses.** Except as otherwise provided herein, or agreed in writing, each party hereto shall bear all expenses incurred by each such party in connection with this Agreement and in the consummation of the transactions contemplated hereby and in preparation thereof.
- F. **Amendment.** This Agreement may only be amended or modified at any time, and from time to time, in writing, executed by the parties hereto.
- G. **Notices.** Any notice, communication, request, reply or advice (hereinafter severally and collectively called "Notice") in this Agreement provided or permitted to be given, may be made or be served by delivering same by overnight mail or by delivering the same by a hand-delivery service, such Notice shall be deemed given when so delivered or sooner as stated within this Agreement.
- H. **Captions.** Captions herein are for the convenience of the parties and shall not affect the interpretation of this Agreement.
- I. **Counterpart Execution.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument and this Agreement may be executed by fax or email.
- J. **Assignment.** This Agreement is not assignable without the written consent of the parties except CLAIMANT has the right to assign the obligations and Shares owed to it hereunder as it may determine.
- K. **Parties in Interest and Affiliates.** Provisions of this Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties, their heirs, executors, administrators, other permitted successors and assigns, if any. Nothing contained in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any persons other than the parties to it and their respective successors and assigns.

L. Construction and Miscellaneous. This Agreement shall be governed exclusively by the laws of the State of New York without reference to conflict of laws and the exclusive venue for any action, claim or dispute in respect of this Agreement shall be such court of competent jurisdiction as is located in Westchester County New York as the sole venue. The parties agree and acknowledge that each has reviewed this Agreement and the normal rule of construction that agreements are to be construed against the drafting party shall not apply in respect of this Agreement given the parties have mutually negotiated and drafted this Agreement.

M. Cooperation and Representations. The parties hereto agree to cooperate with one another in respect of this Agreement, including reviewing and executing any document necessary for the performance of this Agreement, to comply with law or as reasonably requested by any party hereto, or legal counsel to any party hereto. Representations of the COMPANY shall survive the signing and closing of this Agreement.

Effective Date: June 15, 2011

Principal Amount due hereunder: \$224,000

Interest due hereunder: 6% per annum

Maturity Date: Date that is six months from this Effective Date

Description of Debt: Term loan

Name of Company: Pervasip Corp

State of Incorporation of Company: NY

Address of Company: 75 South Broadway #400, White Plains, NY 10601

Name of Claimant:

Claimant Address:

The undersigned hereby execute this document the Effective Date noted:

"COMPANY/DEBTOR"

Name: Pervasip Corp.

By: /s/ Paul H. Riss

Its: CEO

"CLAIMANT"

Name:

By: /s/

Its: _____

Exhibit A

FORM NOTICE OF CONVERSION

The undersigned hereby elects to convert principal under the Securities Settlement Agreement of the "COMPANY" noted below, dated June 15, 2011 into shares of common stock (the "Common Stock") of the COMPANY according to the conditions hereof, as of the date written below. If shares are to be issued in the name of a person other than the undersigned, the undersigned will pay a reasonable transfer expense payable with respect thereto.

Conversion calculations:

Company Name: Pervasip Corp.

Date to Effect Conversion:

Conversion Price: \$0.08 per share. Calculation:

Principal Amount of Agreement to be converted: _____

Number of shares of Common Stock to be issued: _____

Signature: _____

Send Shares Via DWAC:

DTC Number:

A/C:

FAO:

Attn:

Phone:

Exhibit 99.1

FOR IMMEDIATE RELEASE

PERVASIP INITIATES BUYOUT OF CONVERTIBLE DEBT INSTRUMENT
AND CONVERTS OTHER DEBT AT ABOVE MARKET RATES

WHITE PLAINS, N.Y. — June 21, 2011 - - Pervasip Corp. (OTCQB: PVSP), a provider of Voice over Internet Protocol (VoIP) telephone services, today announced that it has sent notice to an investor to buy out a convertible debt instrument, which allows the investor to convert approximately \$100,000 of debt into common stock at a 45% discount to market. Pervasip has also converted \$224,000 of debt on its balance sheet into common stock, at a price of \$0.08 per share.

“We continue to make progress reducing our debt and negotiating the conversion of some of our debt at a price that exceeds the market value of our stock,” said Paul Riss, Pervasip’s Chief Executive Officer. “In conjunction with our debt reduction, we work diligently to limit the number of shares of common stock we have to issue, and we try to only issue convertible debt instruments that we can buy back at a later date.”

“We have the cash to buy out some of our more expensive convertible debt,” continued Riss, “and we believe we can obtain cash in the future at a lower cost. Consequently, we believe it is advantageous for us to pay off the convertible note to prevent it from converting into common stock.”

The company’s transfer agent reports that total shares outstanding as of June 16, 2011 are 46,601,463, 3,690,154 of which are in certificate form and 42,911,309 are held in brokerage accounts. A total of 43,175,587 are considered free trading shares.

About Pervasip

Pervasip Corp. delivers video and voice over IP (VoIP) telephone services for the residential and business markets. VoX differentiates itself through a unique combination of high quality voice services, flexible back-office capabilities and automated provisioning systems. VoX recently entered the mobile VoIP services and applications arena, which is expected to approach 300 million users by 2013. It offers a feature-rich, low-cost, high-quality alternative to traditional phone services. For more information, please visit www.voxcorp.net.

The information contained herein includes forward-looking statements. These statements relate to future events or to our future financial performance, and involve known and unknown risks, uncertainties and other factors that may cause our actual results, levels of activity, performance, or achievements to be materially different from any future results, levels of activity, performance or achievements expressed or implied by these forward-looking statements. You should not place undue reliance on forward-looking statements since they involve known and unknown risks, uncertainties and other factors which are, in some cases, beyond our control and which could, and likely will, materially affect actual results, levels of activity, performance or achievements. Any forward-looking statement reflects our current views with respect to future events and is subject to these and other risks, uncertainties and assumptions relating to our operations, results of operations, growth strategy and liquidity. We assume no obligation to publicly update or revise these forward-looking statements for any reason, or to update the reasons actual results could differ materially from those anticipated in these forward-looking statements, even if new information becomes available in the future.

