

MERGE HEALTHCARE INC
Form S-4/A
July 13, 2009

As filed with the Securities and Exchange Commission on July 13, 2009

Registration No. 333-159998

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
Amendment No. 3 to
FORM S-4

REGISTRATION STATEMENT

UNDER

THE SECURITIES ACT OF 1933

MERGE HEALTHCARE INCORPORATED
(Exact name of Registrant as specified in its charter)

Delaware (State or other jurisdiction of incorporation or organization)	7373 (Primary Standard Industrial Classification Code Number) 6737 West Washington Street Milwaukee, Wisconsin 53214-5650 (414) 977-4000	39-1600938 (I.R.S. Employer Identification No.)
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(Address, including zip code, and telephone number, including area code, of Registrant's principal executive offices)

Justin C. Dearborn
Chief Executive Officer
Merge Healthcare Incorporated
6737 West Washington Street
Milwaukee, WI 53214-5650
(414) 977-4000

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:

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(312) 984-2121

Ann Mayberry-French
Vice President, General Counsel and Secretary
Merge Healthcare Incorporated
6737 West Washington Street
Milwaukee, WI 53214-5650
(414) 977-4000

Approximate date of commencement of proposed sale of the securities to the public: As soon as practicable after the effective date of this Registration Statement and completion of the transactions described in the enclosed prospectus/offer to exchange.

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If the securities being registered on this Form are being offered in connection with the formation of a holding company and there is compliance with General Instruction G, check the following box

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

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 definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Non-accelerated filer

Accelerated filer

Smaller reporting company

If applicable, place an X in the box to designate the appropriate rule provision relied upon in conducting this transaction:

Exchange Act Rule 13e-4(i) (Cross-Border Issuer Tender Offer)

Exchange Act Rule 14d-1(d) (Cross-Border Third-Party Tender Offer)

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CALCULATION OF REGISTRATION FEE

Title Of Each Class Of Securities To Be Registered	Amount To Be Registered(1)	Proposed Maximum Offering Price Per Share	Proposed Maximum Aggregate Offering Price(2)	Amount Of Registration Fee(3)
Common Stock, \$0.01	4,379,611	N/A	\$ 14,685,750	\$ 820 (4)

(1) Based on the maximum number of shares of Merge Healthcare Incorporated (“Merge Healthcare”) common stock to be issued in connection with the Merger Agreement described in the Form S-4 filed by the registrant on June 16, 2009, registration number 159998 which this Form S-4/A amends and supplements (the “Registration Statement”), calculated by multiplying (i) the exchange ratio of 0.3448 shares of Merge Healthcare Common Stock for each share of etrials Worldwide, Inc. (“etrials”) common stock and (ii) 12,701,889, the estimated maximum aggregate number of shares of etrials common stock that could be exchanged for shares of Merge Healthcare Common Stock pursuant to the merger described in the Registration Statement, including shares of etrials common stock issuable upon lapse of restrictions on outstanding restricted stock awards and exercise of all outstanding stock option awards.

(2) Estimated solely for the purposes of calculating the registration fee, and calculated pursuant to Rules 457(c) and 457(f) under the Securities Act of 1933, as amended, the proposed maximum aggregate offering price is equal to the market value of shares of etrials common stock less the total cash consideration expected to be paid in the merger by Merge Healthcare, calculated as follows: (i) (x) \$1.815, the average of the high and low prices per share of etrials common stock on June 10, 2009, as reported on The NASDAQ Global Market, multiplied by (y) 11,064,142, the estimated maximum aggregate number of shares of etrials common stock that could be exchanged for shares of Merge Healthcare Common Stock pursuant to the merger described in the Registration Statement, including shares of etrials common stock issuable upon lapse of restrictions on outstanding restricted stock awards, plus (ii) (x) \$2.110, the average of the high and low prices per share of etrials common stock on June 19, 2009, as reported on The NASDAQ Global Market, multiplied by (y) 1,637,747, the estimated maximum aggregate number of shares of etrials common stock that could be exchanged for shares of Merge Healthcare Common Stock pursuant to the merger described in the Registration Statement, including shares of etrials common stock issuable upon the exercise of outstanding option awards, less (iii) \$8,851,314, the estimated cash consideration expected to be paid in the merger by Merge Healthcare.

(3) Equal to \$55.80 per \$1,000,000 of the proposed aggregate offering price.

(4) Previously paid. An amount of \$1,121 was paid by registrant in conjunction with the filing of the Registration Statement and Schedule TO with the Securities and Exchange Commission on June 16, 2009.

The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment that specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.

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The information contained in this prospectus/offer to exchange (“Prospectus/Offer to Exchange” or “Prospectus”) may be changed. Merge Healthcare Incorporated may not complete the exchange offer and issue these securities until the registration statement filed with the Securities and Exchange Commission becomes effective. This Prospectus is not an offer to sell these securities and Merge Healthcare Incorporated is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.

MERGE HEALTHCARE INCORPORATED

Offer by Merge Acquisition Corp. to Exchange Each Outstanding Share of Common Stock of etrials Worldwide, Inc.
for \$0.80 in Cash and
0.3448 Shares of Common Stock of Merge Healthcare Incorporated

subject to the procedures described in this Prospectus and the related letter of transmittal

THE OFFER AND THE WITHDRAWAL RIGHTS WILL EXPIRE AT 12:00 MIDNIGHT, NEW YORK CITY TIME, AT THE END OF JULY 14, 2009, UNLESS EXTENDED.

Merge Acquisition Corp., a Delaware corporation (“Offeror”), a wholly-owned subsidiary of Merge Healthcare Incorporated (“Merge Healthcare”), is offering to exchange for each outstanding share of common stock of etrials Worldwide, Inc. (“etrials”), par value \$0.0001 per share (the “Shares”), validly tendered in the Offer and not withdrawn, \$0.80 in cash, without interest, and 0.3448 shares of Merge Healthcare common stock, par value \$0.01 per share (“Merge Healthcare Common Stock”) (collectively, the “Consideration”) subject to the procedures described in this Prospectus and the related letter of transmittal (which together, as each may be amended, supplemented or otherwise modified from time to time, constitute the “Offer”). etrials stockholders who otherwise would be entitled to receive a fractional share of Merge Healthcare Common Stock will instead receive an amount in cash (without interest) equal to the amount of such fraction multiplied by \$2.610, rounded to the nearest cent.

The purpose of the Offer is for Merge Healthcare to acquire control of, and ultimately the entire equity interest in and all the outstanding shares of, etrials. The Offer is the first step in Merge Healthcare’s plan to acquire all of the outstanding Shares. Promptly after completion of the Offer, Merge Healthcare intends to consummate a merger of Offeror with and into etrials, with etrials surviving the merger (this merger is referred to herein as the “Merger” and etrials after the Merger is sometimes referred to herein as the “Surviving Corporation”). The purpose of the Merger is for Merge Healthcare to acquire all Shares not acquired in the Offer. After the Merger, the Surviving Corporation will be a wholly-owned subsidiary of Merge Healthcare and the former etrials stockholders will no longer have any direct ownership interest in the Surviving Corporation.

Offeror’s obligation to accept for exchange, and to exchange, Shares for cash and shares of Merge Healthcare Common Stock in the Offer is subject to a number of conditions, which are more fully described in “The Offer — Terms of the Offer.”

Merge Healthcare Common Stock is listed on the NASDAQ Global Market under the symbol “MRGE.” The Shares are listed on the NASDAQ Global Market under the symbol “ETWC.”

For a discussion of certain factors that etrials stockholders should consider in connection with the Offer, please carefully read “Risk Factors” beginning on page 7.

Merge Healthcare has not authorized any person to provide any information or to make any representation in connection with the Offer other than the information contained or incorporated by reference in this Prospectus, and if

any person provides any information or makes any representation of this kind, that information or representation must not be relied upon as having been authorized by Merge Healthcare.

Neither the Securities and Exchange Commission (“SEC”) nor any state securities commission has approved or disapproved of these securities or passed upon the adequacy or accuracy of this Prospectus. Any representation to the contrary is a criminal offense.

The date of this Prospectus is June 16, 2009, as amended on June 23, 2009, July 6, 2009 and July 13, 2009.

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