

VIVUS INC  
Form 8-K  
November 06, 2009

**UNITED STATES**

**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

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**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) **November 3, 2009**

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**VIVUS, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction of  
incorporation)

**001-33389**  
(Commission File Number)

**94-3136179**  
(IRS Employer  
Identification No.)

**1172 CASTRO STREET**

**MOUNTAIN VIEW, CA 94040**

(Address of principal executive offices, including zip code)

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(650) 934-5200

(Registrant's telephone number, including area code)

N/A

(Former name or former address, if changed since last report)

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 (see General Instruction A.2. below):

- 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 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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**Item 2.02. Results of Operations and Financial Condition**

On November 3, 2009, VIVUS, Inc. conducted a conference call during which members of its senior management team discussed financial results for the third quarter ended September 30, 2009 and certain other information. They also reported on product development highlights and responded to questions. A copy of the transcript of the conference call is attached hereto as Exhibit 99.1.

**Item 8.01. Other Events**

On November 5, 2009, VIVUS, Inc. issued a press release titled "VIVUS to Present at Merriman Curhan Ford's Investor Summit." A copy of the press release is attached hereto as Exhibit 99.2.

The information in this Form 8-K and the exhibits attached hereto shall not be deemed filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or incorporated by reference into any of the Registrant's filings under the Securities Act of 1933, as amended, or the Exchange Act, except as shall be expressly set forth by specific reference in any such filing.

**Item 9.01. Financial Statements and Exhibits**

**(d) Exhibits.**

<b>Exhibit No.</b>	<b>Description</b>
99.1	Transcript of VIVUS, Inc. Third Quarter 2009 Results Conference Call on November 3, 2009, 3:30 p.m. CT
99.2	Press Release dated November 5, 2009

**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 hereunto duly authorized.

**VIVUS, INC.**

By: /s/ Lee B. Perry  
Lee B. Perry  
Vice President and Chief Accounting Officer

Date: November 6, 2009

**EXHIBIT INDEX**

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