

Edgar Filing: NET PERCEPTIONS INC - Form SC TO-T/A

NET PERCEPTIONS INC
Form SC TO-T/A
February 20, 2004

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

SCHEDULE TO
Tender Offer Statement Under Section 14(d)(1) or 13(e)(1) of
the Securities Exchange Act of 1934
(Amendment No. 5)

NET PERCEPTIONS, INC.
(Name of Subject Company (Issuer))
OBSIDIAN ENTERPRISES, INC.
(Names of Filing Person (Offeror))
COMMON STOCK, PAR VALUE \$.0001 PER SHARE
(Title of Class of Securities)

64107 U 101
(CUSIP Number of Class of Securities)

Timothy S. Durham
Chief Executive Officer
Obsidian Enterprises, Inc.
111 Monument Circle, Suite 4800
Indianapolis, Indiana 46204
Telephone: (317) 237-4055

(Name, Address and Telephone Numbers of Person Authorized
to Receive Notices and Communications on Behalf of Filing Persons)

Copies to:
Stephen J. Dutton, Esq.
Barnes & Thornburg
11 South Meridian Street
Indianapolis, Indiana 46204
Telephone: (317) 236-1313

CALCULATION OF FILING FEE

Transaction Valuation*	Amount of Filing Fee**
\$10,976,682	\$888

* Estimated for purposes of calculating the amount of filing fee only. Transaction value derived by multiplying 28,145,338 (the number of shares of common stock of the subject company outstanding as of October 31, 2003) by \$.39 (the value of each share of subject company as of December 12, 2003).

** The amount of the filing fee, calculated in accordance with Rule 0-11 of the Securities and Exchange Act of 1934, as amended, and Fee Advisory #6 for Fiscal Year 2004 issued by the Securities and Exchange Commission on November 24, 2003, equals 0.00008090% of the transaction valuation.

[X] Check the box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

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Amount Previously Paid: \$906.60
Form or Registration No.: Form S-4

Filing Party: Obsidian Enterprises, Inc.
Date Filed: December 15, 2003

Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer:

Check the appropriate boxes below to designate any transactions to which the statement relates:

- ☒ third-party tender offer subject to Rule 14d-1.
- ☐ issuer tender offer subject to Rule 13e-4.
- ☐ going-private transaction subject to Rule 13e-3.
- ☐ amendment to Schedule 13D under Rule 13d-2.

Check the following box if the filing is a final amendment reporting the results of the tender offer: ☐

This Amendment No. 5 amends and supplements the Tender Offer Statement on Schedule TO originally filed with the Securities and Exchange Commission (the "Commission") on December 15, 2003, as amended and supplemented by Amendment No. 1 thereto filed with the Commission on December 17, 2003, Amendment No. 2 thereto filed with the Commission on December 23, 2003, Amendment No. 3 thereto filed with the Commission on January 21, 2004 and Amendment No. 4 thereto filed with the Commission on February 17, 2004 (as amended and supplemented, this "Schedule TO") relating to the offer (the "Offer") by Obsidian Enterprises, Inc., a Delaware corporation ("Obsidian"), to exchange each issued and outstanding share of common stock, par value \$.0001 per share (the "Net Perceptions Shares"), of Net Perceptions, Inc., a Delaware corporation ("Net Perceptions"), for 1/25 of a share of common stock, par value \$.0001 of Obsidian ("Obsidian Shares"). Obsidian effected a 1 for 50 reverse stock split effective for trading purposes on February 18, 2004. In lieu of fractional shares, cash will be provided in an amount equal to the value of the fractional share.

Obsidian has filed a registration statement with the Commission on Form S-4 (Reg. No. 333-111191) relating to the Obsidian Shares to be issued to stockholders of Net Perceptions in the Offer (the "Registration Statement"). The terms and conditions of the Offer are set forth in the prospectus which is a part of the Registration Statement (the "Prospectus") and the related Letter of Transmittal.

On February 20, 2004, Obsidian issued a press release announcing the extension of the expiration date for the offer from 5:00 p.m., New York City time, on Friday, February 20, 2004 to 5:00 p.m., New York City time, on Wednesday, March 17, 2004. A copy of the press release is incorporated by reference into this Schedule TO.

ITEM 12. EXHIBITS.

(a) Press Release issued by Obsidian, dated February 20, 2004.

SIGNATURES

After due inquiry and to the best of my knowledge and belief, I certify

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that the information set forth in this Schedule TO is true, complete and correct.

OBSIDIAN ENTERPRISES, INC.

By: /s/ Timothy S. Durham

Timothy S. Durham
Chief Executive Officer

Date: February 20, 2004