

SBE INC  
Form PRER14A  
February 14, 2007

**SCHEDULE 14A**  
(RULE 14a-101)  
**INFORMATION REQUIRED IN PROXY STATEMENT**

**SCHEDULE 14A INFORMATION**  
**Proxy Statement Pursuant to Section 14(a)**  
**of the Securities Exchange Act of 1934**

(Amendment No. 2)

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
- Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
- Definitive Proxy Statement
- Definitive Additional Materials
- Soliciting Material Under Rule 14a-12

**SBE, INC.**

(Name of Registrant as Specified In Its Charter)

**Not applicable**

(Name of Person(s) Filing Proxy Statement, if Other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

- No fee required.
- Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

- (1) Title of each class of securities to which transaction applies: Common Stock, par value \$0.001 per share, of the Registrant (the "Common Stock").
- (2) Aggregate number of securities to which transaction applies: N/A
- (3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11: N/A
- (4) Proposed maximum aggregate value of transaction: \$3,000,000
- (5) Total fee paid: \$600

- Fee paid previously with preliminary materials

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Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the form or schedule and the date of its filing.

- |     |   |
|-----|---|
| (1) | Amount previously paid: N/A                       |
| (2) | Form, Schedule or Registration Statement No.: N/A |
| (3) | Filing Party: N/A                                 |
| (4) | Date Filed: N/A                                   |
-

[SBE letterhead]

February \_\_, 2007

Dear Stockholder:

You are cordially invited to attend the Special Meeting of Stockholders of SBE, Inc. to be held on March \_\_, 2007 at SBE's offices located at 4000 Executive Parkway, Suite 200, San Ramon, California 94583. The meeting will begin promptly at 8:00 a.m., Pacific Standard Time.

The items of business to be considered at the meeting are listed in the following Notice of Special Meeting and are more fully addressed in the proxy statement included with this letter. The items you will be asked to approve at the meeting relate to the proposed sale of our embedded business to One Stop Systems, Inc. and an amendment to our Amended and Restated Certificate of Incorporation to effect a stock combination (reverse stock split) pursuant to which every five shares of outstanding common stock would be reclassified into one share of common stock.

Our board of directors carefully considered the proposed sale of our embedded business and recommends that you vote in favor of this transaction. Our management team is excited about the sale of our embedded business and believes it is an essential step in maximizing value for our stockholders.

**Whether or not you plan to attend the special meeting in person, it is important that your shares be represented and voted at the meeting.** Please date, sign, and return your proxy card promptly in the enclosed envelope to ensure that your shares will be represented and voted at the special meeting, even if you cannot attend. If you attend the special meeting, you may vote your shares in person even though you have previously signed and returned your proxy.

On behalf of your board of directors, thank you for your investment in and continued support of SBE, Inc.

Sincerely,

/s/ Greg Yamamoto

Greg Yamamoto  
*Chief Executive Officer and President*

**SBE, INC.**

**NOTICE OF SPECIAL MEETING OF STOCKHOLDERS  
To Be Held On March \_\_, 2007**

To the Stockholders of SBE, Inc.:

You are cordially invited to attend a Special Meeting of Stockholders of SBE, Inc., a Delaware corporation (the "Company"). The meeting will be held on March \_\_, 2007 at 8:00 a.m., local time, at SBE's offices located at 4000 Executive Parkway, Suite 200, San Ramon, California 94583, for the following purposes:

- (1) To approve the sale of our embedded business pursuant to an asset purchase agreement between us and One Stop Systems, Inc. pursuant to which One Stop would acquire our embedded business for \$2,200,000 in cash and assume our obligations under the lease of our corporate headquarters building and certain equipment leases;
- (2) To approve an amendment to the Company's Certificate of Incorporation to effect a stock combination (reverse stock split) pursuant to which every five shares of outstanding common stock would be reclassified into one share of common stock; and
- (3) To transact such other business as may properly come before the meeting or any adjournment thereof.

These items of business are more fully described in the Proxy Statement accompanying this Notice.

The record date for the Annual Meeting is January 17, 2007. Only stockholders of record at the close of business on that date may vote at the meeting or any adjournment thereof.

By Order of the Board of Directors,

/s/ David W. Brunton

David W. Brunton  
*Secretary*

San Ramon, California  
February \_\_, 2007

**YOU ARE CORDIALLY INVITED TO ATTEND THE SPECIAL MEETING IN PERSON. WHETHER OR NOT YOU EXPECT TO ATTEND THE SPECIAL MEETING, PLEASE COMPLETE, SIGN AND DATE THE ENCLOSED PROXY AND RETURN IT PROMPTLY IN THE ENCLOSED ENVELOPE, WHICH DOES NOT REQUIRE ANY POSTAGE IF MAILED IN THE UNITED STATES, IN ORDER TO ENSURE YOUR REPRESENTATION AT THE SPECIAL MEETING. EVEN IF YOU HAVE VOTED BY PROXY, YOU MAY STILL VOTE IN PERSON IF YOU ATTEND THE MEETING. PLEASE NOTE, HOWEVER, THAT IF YOUR SHARES ARE HELD OF RECORD BY A BROKER, BANK OR OTHER NOMINEE AND YOU WISH TO VOTE AT THE MEETING, YOU MUST OBTAIN A PROXY ISSUED IN YOUR NAME FROM THAT RECORD HOLDER IN ORDER TO VOTE IN PERSON.**



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Annex A Agreement for Purchase and Sale of Assets, dated January 11, 2007, between SBE, Inc. and One Stop Systems, Inc.

Annex B Opinion of Seidman & Co., Inc., dated January 12, 2007

Annex C Audited Financial Statements - SBE, Inc.

Annex D	Audited Financial Statements - Neonode Inc.
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Annex F	Unaudited Pro Forma Condensed Consolidated Financial Statements—Without Embedded Hardware Business
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## SUMMARY TERM SHEET

### FOR THE SALE OF EMBEDDED BUSINESS

*The following summary provides an overview of the proposed sale of our embedded business discussed in this proxy statement. The summary also contains cross-references to the more detailed discussions elsewhere in the proxy statement. This summary may not contain all of the information that is important to you. To understand the proposed asset sale fully, and for a more complete description of the terms of the proposed asset sale, you should carefully read this entire proxy statement and the attached annexes in their entirety.*

#### **The Companies (see page \_\_\_)**

##### ***SBE***

SBE, Inc., headquartered in San Ramon, California, designs and provides iSCSI-based storage networking solutions for an extensive range of business critical applications, including Disk-to-Disk Back-up and Disaster Recovery. We deliver an affordable, expandable, easy-to-use portfolio of software solutions designed to enable optimal performance and rapid deployment across a wide range of next generation storage systems. We also manufacture and sell hardware products, including wide area network and local area network interface cards and central processor units to original equipment manufacturers that embed our hardware products into their products for the telecommunications markets. Our hardware products perform critical computing and input/output, or I/O, tasks in diverse markets such as high-end enterprise level computing servers, Linux super-computing clusters, workstations, media gateways, routers and Internet access devices. We refer to this hardware business in this proxy statement as our embedded business. Our products are distributed worldwide through a direct sales force, distributors, independent manufacturers' representatives and value-added resellers.

##### ***One Stop***

**One Stop Systems, Inc.** is a manufacturer of industrial-grade computing systems and components, including a line of Peripheral Component Interconnect, or PCI, Express-based products. One Stop's PCI Express-based products increase network bus speed up to 16 times faster than 64-bit PCI and 80 times faster than Gigabit Ethernet. One Stop offers over 400 standard products, including its MAX Express product line, passive backplane, Virtual Machine Environment and custom and proprietary bus structures. One Stop's principal executive office is located at 2235 Enterprise Street, Suite 110, Escondido, California 92029.

#### **Neonode (see page \_\_\_)**

On January 19, 2007, we entered into an Agreement and Plan of Merger and Reorganization with Neonode, Inc., a Delaware corporation. Neonode is a Sweden-based developer and manufacturer of multimedia mobile handsets. For a description of the proposed Neonode transaction, please see "Overview of the Neonode Transaction" on page \_\_. The sale of our embedded business to One Stop is a condition to closing the transaction with Neonode. We intend to file a proxy statement in connection with the merger with Neonode. The proxy statement, when it becomes available, will contain important information about the merger transaction and about Neonode. Free copies of the proxy statement will be available at the SEC's website at [www.sec.gov](http://www.sec.gov).

#### **Overview of the Transaction (see page \_\_\_)**

We have entered into an asset purchase agreement with One Stop. Under the asset purchase agreement, One Stop would acquire our embedded business for \$2,200,000 in cash and assume our obligations under the lease of our



corporate headquarters building and certain equipment leases. The asset purchase agreement is attached to this proxy statement as Annex A.

**Recommendation of the Board of Directors (see page \_\_\_\_)**

Our board of directors has determined that the asset sale is fair to, and in the best interests of, us and our stockholders and recommends that our stockholders vote FOR the proposal to approve the sale of our embedded business to One Stop.

To review the background and reasons for the asset sale in detail, see “Asset Sale — Reasons for the Asset Sale” beginning on page \_\_\_\_.

**Opinion of Our Financial Advisor (see page \_\_\_\_)**

In connection with the proposed asset sale, our board of directors received a written opinion from our financial advisor, Seidman & Co., Inc. as to the fairness of the consideration to be received by us, from a financial point of view and as of the date of the opinion. The full text of Seidman & Co., Inc.’s written opinion is attached to this proxy statement as Annex B. You are encouraged to read this opinion carefully in its entirety for a description of the assumptions made, matters considered and limitations on the review undertaken.

**The Asset Sale (see page \_\_\_\_)**

***General***

On January 11, 2007, we entered into an Agreement for Purchase and Sale of Assets with One Stop, the asset purchase agreement, pursuant to which we agreed to sell our embedded business to One Stop for \$2,200,000 in cash plus One Stop’s assumption of the lease of our corporate headquarters building and certain equipment leases.

***Terms of the Asset Purchase Agreement***

The asset purchase agreement is attached to this proxy statement as Annex A. We encourage you to read the asset purchase agreement carefully. Our board of directors has approved the asset purchase agreement, and it is the binding legal agreement that governs the terms of the asset sale.

***Conditions Precedent***

One Stop’s obligation to complete the asset sale depends on the satisfaction or waiver of a number of conditions, including conditions relating to:

- accuracy of our representations on and as of the closing;
- our performance, satisfaction and compliance with all covenants, agreements and closing conditions;
- no material adverse change will have occurred with respect to the embedded business;

receipt of an officer’s certificate executed by our chief executive officer certifying that all closing conditions have been fulfilled;

- absence of litigation pertaining to the sale of the embedded business;
- our receipt of stockholder approval of the transaction; and
- payment of certain outstanding accounts payable attributable to our embedded business.

In addition, our obligation to complete the asset sale is subject to satisfaction or waiver of certain additional conditions, including conditions relating to:

- accuracy of One Stop’s representations on and as of the closing;



- One Stop's performance, satisfaction and compliance with all covenants, agreements and closing conditions; and
- absence of litigation pertaining to the transaction.

### *Termination*

The asset purchase agreement may be terminated under the following circumstances:

- by mutual written consent of the parties, duly authorized by their respective boards;
- the closing has not occurred on or before April 30, 2007, unless the party terminating in this circumstance is at fault for the delay in closing;
- any proceeding is pending against either party that could prevent performance of the asset sale; or
- any governmental entity has issued an order, the effect of which is to prohibit the asset sale.

### **Restriction on Competition**

We have agreed that for four years following the closing of the asset sale, we will not directly or indirectly engage in the embedded business or have any interest in (whether as an employee, officer, director, agent, security holder, creditor, consultant, or otherwise), any entity engaged in the embedded business.

### **Indemnification**

Each party has agreed to indemnify the other party for damages arising for any breach of any of the representations or warranties or covenants or obligations in the asset purchase agreement. In addition, we have agreed to indemnify One Stop for any liabilities attributable to operation of the embedded business prior to the closing. All representations, warranties and covenants expire on the first anniversary of the closing. Our liability for indemnification claims made by One Stop pursuant to the asset purchase agreement is capped at \$2,200,000 in the aggregate.

### **Regulatory Approvals**

We are not aware of any federal or state regulatory requirements that must be complied with or approvals that must be obtained to consummate the asset sale other than the filing of this proxy statement with the SEC. If any additional approvals or filings are required, we will use our commercially reasonable efforts to obtain those approvals and make any required filings before completing the transactions.

### **Dissenters' Rights**

Our stockholders are not entitled to exercise dissenters' rights in connection with the asset sale.

### **Transactions Following the Asset Sale**

The assets we propose to sell to One Stop comprise all of our embedded business. After the closing of such sale, we expect our only remaining assets will be cash, accounts receivable, fixed assets and the storage software business we acquired in connection with our acquisition of PyX Technologies, Inc. in 2005. On January 19, 2007, we entered into an Agreement and Plan of Merger and Reorganization, with Neonode Inc., a Delaware corporation. Neonode is a Sweden-based developer and manufacturer of multimedia mobile handsets. It is anticipated that our name will be changed to "Neonode Inc." in connection with the completion of the merger. The sale of our embedded business to One

Stop is a condition to closing the transaction with Neonode. For a description of the proposed Neonode transaction, please see “Overview of the Neonode Transaction” on page \_\_\_\_\_. We intend to file a proxy statement in connection with the merger with Neonode. The proxy statement, when it becomes available, will contain important information about the merger transaction. Free copies of the proxy statement will be available at the SEC's web site at [www.sec.gov](http://www.sec.gov). We are evaluating strategic alternatives regarding our storage software business.

Except as otherwise specifically noted, “SBE,” “we,” “our,” “us” and similar words in this proxy statement refer to SBE, Inc. and its subsidiaries. References to “One Stop” shall mean One Stop Systems, Inc.

### **FORWARD-LOOKING STATEMENTS**

The information in this proxy statement contains forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. Statements that are not historical in nature, including statements about beliefs and expectations, are forward-looking statements. Words such as “may,” “will,” “should,” “estimates,” “predicts,” “believes,” “anticipates,” “plans,” “expects,” “intends,” or similar expressions are intended to identify these forward-looking statements, but are not the exclusive means of identifying such statements. Such statements are based on currently available operating, financial and competitive information and are subject to various risks and uncertainties. You are cautioned that these forward-looking statements reflect management's estimates only as of the date hereof, and we assume no obligation to update these statements, even if new information becomes available or other events occur in the future. Actual future results, events and trends may differ materially from those expressed in or implied by such statements depending on a variety of factors, including, but not limited to those set forth under “Risk Factors” and elsewhere in this proxy statement. Important factors that might cause or contribute to such a discrepancy include, but are not limited to:

- the timing and success of the proposed sale of our embedded business and our proposed transaction with Neonode;
- the effect of the transaction on our market price;
- the factors discussed under “Risk Factors,” beginning on page \_\_\_; and
- other risks referenced from time to time in our filings with the Securities and Exchange Commission, or SEC.

### **WHERE YOU CAN FIND MORE INFORMATION**

We are a reporting company and file annual, quarterly and special reports, proxy statements and other information with the SEC. You may read and copy any reports, proxy statements or other information that we file at the SEC’s public reference room at 100 F Street N.E., Room 1580, Washington, D.C., 20549. You can also request copies of these documents by writing to the SEC and paying a fee for the copying costs. Please call the SEC at 1-800-SEC-0330 for more information about the operation of the public reference room. Our public filings with the SEC are also available on the web site maintained by the SEC at <http://www.sec.gov>.

We have supplied all information in this proxy statement relating to SBE. One Stop has supplied all information in this proxy statement relating to One Stop. Neonode has supplied all information in this proxy statement relating to Neonode. Seidman & Co., Inc. has supplied the information regarding its fairness opinion.

**SBE, INC.**  
**4000 Executive Parkway, Suite 200**  
**San Ramon, California 94583**