

Edgar Filing: NETSCOUT SYSTEMS INC - Form 8-K

NETSCOUT SYSTEMS INC  
Form 8-K  
July 26, 2007

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC 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): July 20, 2007

NETSCOUT SYSTEMS, INC.  
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(Exact name of registrant as specified in its charter)

Delaware  
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(State or other jurisdiction of incorporation)

0000-26251  
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(Commission File Number)

04-2837575  
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(IRS Employer Identification No.)

310 Littleton Road  
Westford, Massachusetts  
-----

(Address of principal executive offices)

01886  
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(Zip Code)

(978) 614-4000  
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(Registrant's telephone number, including area code)

Not Applicable  
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(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:

- 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 1.01. Entry into Material Definitive Agreement; Item 2.03. Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant

On July 20, 2007, NetScout Systems, Inc. (the "Company") and Silicon Valley Bank (the "Lender") entered into a Loan Modification Agreement (the "Loan Modification Agreement") pursuant to which the maturity date for amounts that are or may become due under the Amended and Restated Loan and Security Agreement dated as of March 12, 1998, as amended to date (the "Loan Agreement"), was extended until June 4, 2009. Under the Loan Agreement, the Company may borrow up to \$10 million. In addition to the forgoing, the Loan Modification Agreement also modified the financial reporting obligations to the Lender by requiring that the Company (1) deliver to the Lender copies of its Form 10-K and Form 10-Q filings within five days of filing; (2) promptly report any legal actions pending or threatened against the Company or any subsidiary that could result in damages or costs to the Company or any subsidiary in excess of \$100,000 or (3) other financial information reasonably requested by the Lender.

A copy of the Loan Modification Agreement is attached hereto as Exhibit 10.1 and incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

The Company hereby files the following exhibits:

10.1 Loan Modification Agreement dated July 20, 2007 by and between the Company and Silicon Valley Bank

### 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 thereunto duly authorized.

NETSCOUT SYSTEMS, INC.

By: /s/ David P. Sommers

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David P. Sommers  
Chief Financial Officer and  
Senior Vice President, General  
Operations

Date: July 25, 2007

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EXHIBIT INDEX

| Exhibit Number | Description   |
|----------------|---|
| 10.1           | Loan Modification Agreement dated July 20, 2007 by and between the Company and Silicon Valley Bank. |