

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

Amendment No. 2 to  
FORM S-3

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

**COPYTELE, INC.**

(Exact name of registrant as specified in its charter)

<b>Delaware</b>	<b>6794</b>	<b>11-2622630</b>
(State or other jurisdiction of incorporation or organization)	(Primary Standard Industrial Classification Code Number)	(I.R.S. Employer Identification Number)

**900 Walt Whitman Road  
Melville, NY 11747  
(631) 549-5900**

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

**Robert A. Berman  
President and Chief Executive Officer  
CopyTele, Inc.  
900 Walt Whitman Road  
Melville, NY 11747  
(631) 549-5900**

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

Please send a copy of all communications to:

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1345 Avenue of the Americas  
New York, New York 10105-0302  
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Approximate date of commencement proposed sale to the public: From time to time after the effective date of this Registration Statement.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, 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, please 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(c) 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 registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box.

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box.

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

Accelerated filer

Non-accelerated filer (Do not check if smaller reporting company)

Smaller reporting company

**CALCULATION OF REGISTRATION FEE**

Title of Each Class of Securities to Be Registered	Amount to Be Registered (1)	Proposed Maximum Offering Price per Share (2)	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee (5)
Shares of common stock, par value \$0.01 per share, underlying a convertible note sold in a private placement (3)	18,498,943	\$ 0.375	\$ 6,937,103.63	\$ 893.50
Shares of common stock, par value \$0.01 per share, underlying warrants sold in a private placement (4)	9,249,472	\$ 0.3784	\$ 3,500,000.20	\$ 450.80
Total	27,748,415		\$ 10,437,103.83	\$ 1,344.30

(1) In accordance with Rule 416, CopyTele, Inc. (the "Company" or the "Registrant") is also registering hereunder an indeterminate number of additional securities that may be issued and resold resulting from stock splits, stock dividends or similar transactions.

(2) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(c) under the Securities Act of 1933, as amended, based on the average high and low prices of the common stock on the OTCQB on February 3, 2014.

(3) Represents shares of common stock issuable upon the conversion of a 6% convertible debenture issued on November 11, 2013 in a private placement (the "November Private Placement").

(4) Represents shares of common stock issuable upon the exercise of warrants issued in the November Private Placement. Pursuant to Rule 416, there are also being registered such indeterminable additional securities as may be issued to prevent dilution as a result of stock splits, stock dividends or similar transactions. Proposed maximum offering price per share is based on the exercise price of the warrant in accordance with Rule 457(g).

(5) Fee has been previously paid.

**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 which 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.**

**The information in this prospectus is not complete and may be changed. We may not sell the securities until the Registration Statement filed with the Securities and Exchange Commission, of which this prospectus is a part, is effective. This prospectus is not an offer to sell these securities and is not soliciting an offer to buy these securities in any state where the offer or sale is not permitted.**

SUBJECT TO COMPLETION, DATED MAY 6, 2014

## Prospectus



### 27,748,415 Shares of Common Stock

This prospectus relates to the resale of up to 27,748,415 shares of common stock, par value \$0.01 per share, of CopyTele, Inc. ("we," "us," "our," the "Company," "CopyTele" or "CTI") held by a selling stockholder, consisting of the following:

- 18,498,943 shares of common stock issuable upon the conversion of a 6% convertible debenture (the "Debenture") held by Adaptive Capital, LLC ("Adaptive Capital") that was issued on November 11, 2013 in a private placement (the "November Private Placement"); and
- 9,249,472 shares of common stock issuable upon the exercise of warrants held by Adaptive Capital and issued in the November Private Placement.

We will not receive any proceeds from the resale of any of the shares of common stock being registered hereby. However, we may receive proceeds from the exercise of the warrants exercised other than pursuant to any applicable cashless exercise provisions of the warrants.

Our common stock is quoted on the OTCQB under the symbol "COPY." On April 17, 2014, the last reported sale price of our common stock on the OTCQB was \$0.25 per share.

Concurrently with the securities being offered by the selling stockholder in the secondary offering pursuant to this prospectus, we are offering an indeterminate number of shares of our common stock in a primary offering in a separate prospectus included in our Registration Statement on Form S-3 (File No. 333-193869). Additionally, on February 3, 2014, we filed our Post-Effective Amendment No. 1 to Form S-1 on Form S-3 (File No. 333-188096), to continue registration of up to 57,400,130 shares of our common stock, originally registered in a secondary offering and declared effective on June 14, 2013.

The selling stockholder may offer all or part of the shares for resale from time to time through public or private transactions, at either prevailing market prices or at privately negotiated prices. With regard only to the shares it sells for its own behalf, Adaptive Capital is an "underwriter" within the meaning of the Securities Act of 1933, as amended. The Company is paying all of the registration expenses incurred in connection with the registration of the shares. We will not pay any of the selling commissions, brokerage fees and related expenses.

**Investing in our common stock involves a high degree of risk. See "Risk Factors" beginning on page 4 to read about factors you should consider before investing in shares of our common stock.**

**Neither the Securities and Exchange Commission 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 May 6, 2014

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You should rely only on the information contained in this prospectus. We have not authorized any dealer, salesperson or other person to provide you with information concerning us, except for the information contained in this prospectus. The information contained in this prospectus is complete and accurate only as of the date on the front cover page of this prospectus, regardless when the time of delivery of this prospectus or the sale of any common stock. This prospectus is not an offer to sell, nor is it a solicitation of an offer to buy, our common stock in any jurisdiction in which the offer or sale is not permitted.

#### TABLE OF CONTENTS

	<u>Page</u>
<a href="#">Cautionary Statement Regarding Forward-Looking Statements</a>	1
<a href="#">Prospectus Summary</a>	2
<a href="#">The Offering</a>	3
<a href="#">Risk Factors</a>	4
<a href="#">Use of Proceeds</a>	13
<a href="#">Selling Stockholder</a>	13
<a href="#">Plan of Distribution</a>	15
<a href="#">Experts</a>	17
<a href="#">Legal Matters</a>	17
<a href="#">Where You Can Find Additional Information</a>	17
<a href="#">Incorporation of Documents by Reference</a>	17

**Industry and Market Data:** In this prospectus, we rely on and refer to information and statistics regarding our industry. We obtained this statistical, market and other industry data and forecasts from publicly available information. While we believe that the statistical data, market data and other industry data and forecasts are reliable, we have not independently verified the data.

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**CAUTIONARY NOTE REGARDING FORWARD LOOKING STATEMENTS**

This prospectus and any accompanying prospectus supplement and the documents incorporated by reference herein contain forward looking statements that involve risks and uncertainties. All statements other than statements of historical fact contained in this prospectus and any accompanying prospectus supplement and the documents incorporated by reference herein, including statements regarding future events, our future financial performance, business strategy, and plans and objectives of management for future operations, are forward-looking statements. We have attempted to identify forward-looking statements by terminology including "anticipates," "believes," "can," "continue," "could," "estimates," "expects," "intends," "may," "plans," "potential," "predicts," "should," or "will" or the negative of these terms or other comparable terminology. Although we do not make forward looking statements unless we believe we have a reasonable basis for doing so, we cannot guarantee their accuracy. These statements are only predictions and involve known and unknown risks, uncertainties and other factors, including the risks outlined under "Risk Factors" or elsewhere in this prospectus and the documents incorporated by reference herein, which may cause our or our industry's actual results, levels of activity, performance or achievements expressed or implied by these forward-looking statements. Moreover, we operate in a highly regulated, very competitive, and rapidly changing environment. New risks emerge from time to time and it is not possible for us to predict all risk factors, nor can we address the impact of all factors on our business or the extent to which any factor, or combination of factors, may cause our actual results to differ materially from those contained in any forward-looking statements.

We have based these forward-looking statements largely on our current expectations and projections about future events and financial trends that we believe may affect our financial condition, results of operations, business strategy, short term and long term business operations, and financial needs. These forward-looking statements are subject to certain risks and uncertainties that could cause our actual results to differ materially from those reflected in the forward looking statements. Factors that could cause or contribute to such differences include, but are not limited to, those discussed in this prospectus, and in particular, the risks discussed below and under the heading "Risk Factors" and those discussed in other documents we file with the SEC. The following discussion should be read in conjunction with the consolidated financial statements for the fiscal years ended October 31, 2013 and 2012 and notes incorporated by reference herein. We undertake no obligation to revise or publicly release the results of any revision to these forward-looking statements, except as required by law. In light of these risks, uncertainties and assumptions, the forward-looking events and circumstances discussed in this prospectus may not occur and actual results could differ materially and adversely from those anticipated or implied in the forward-looking statement.

You should not place undue reliance on any forward-looking statement, each of which applies only as of the date of this prospectus. You should be aware that the occurrence of the events described in the section entitled "Risk Factors" and elsewhere in this prospectus could negatively affect our business, operating results, financial condition and stock price. Except as required by law, we undertake no obligation to update or revise publicly any of the forward-looking statements after the date of this prospectus to conform our statements to actual results or changed expectations.

## PROSPECTUS SUMMARY

*This summary highlights selected information contained elsewhere in this prospectus. This summary does not contain all the information that you should consider before investing in the common stock. You should carefully read the entire prospectus, including all documents incorporated by reference herein. In particular, attention should be directed to our "Risk Factors," "Information With Respect to the Company," "Management's Discussion and Analysis of Financial Condition and Results of Operations" and the financial statements and related notes thereto contained herein or otherwise incorporated by reference hereto, before making an investment decision.*

As used herein, "we," "us," "our," the "Company," "CopyTele" or "CTI" means CopyTele, Inc. unless otherwise indicated. Unless otherwise indicated, all references in this prospectus to "dollars" or "\$" refer to US dollars.

### Business Overview

Our principal operations include the development, acquisition, licensing, and enforcement of patented technologies that are either owned or controlled by the Company or one of our wholly-owned subsidiaries. The Company currently owns or controls nine patent portfolios. As part of our patent assertion activities and in the ordinary course of our business, the Company, and our wholly-owned subsidiaries, have initiated and will likely continue to initiate patent infringement lawsuits, and engage in patent infringement litigation. Since implementing our new business model in January 2013, the Company has initiated 41 lawsuits in connection with five of our patent portfolios. Our primary source of revenue will come from licenses resulting from the unauthorized use of our patented technologies, including the settlement of patent infringement lawsuits. In 2013, we entered into four revenue producing licenses from two of our patent portfolios. In 2014, we have entered into one license agreement from one of our patent portfolios. In addition to continuing to mine and monetize our existing patents, our wholly-owned subsidiary, CTI Patent Acquisition Corporation, will continue to acquire patents and the exclusive rights to license and enforce patents from third parties. In 2013, the Company acquired the rights to four additional patent portfolios.

We were incorporated on November 5, 1982 under the laws of the State of Delaware. From inception through end of fiscal year 2012, our primary operations involved licensing in connection with the development of patented technologies. Since that date, our primary operations include the development, acquisition, licensing, and enforcement of patented technologies that are either owned or controlled by the Company or one of our wholly-owned subsidiaries. See the section entitled "Business" in our annual report on Form 10-K, which was filed with the Securities and Exchange Commission ("SEC") on January 16, 2014 (the "2013 10-K") and has been incorporated by reference herein, for additional information.

### Transactions with Selling Stockholder

On November 11, 2013, we entered into a subscription agreement with Adaptive Capital LLC ("Adaptive Capital"), an institutional investor, pursuant to which we issued a 6% Convertible Debenture with a principal amount of \$3,500,000 (the "Debenture") and a warrant (the "Warrant") to purchase 9,249,472 shares of common stock (the "Warrant Shares"). The Debenture is convertible at a price per share of \$0.1892 on or before November 11, 2016 and contains full ratchet anti-dilution protection. The Warrant grants the holder the right to purchase the Warrant Shares at the purchase price per share of \$0.3784 on or before November 11, 2016. The conversion of the Debenture and exercise of the Warrant are subject to certain beneficial ownership limitations. For further information regarding the transactions with this selling stockholder, see "Selling Stockholder."

### Where You Can Find Us

Our principal executive offices are located at 900 Walt Whitman Road, Melville, New York 11747, our telephone number is 631-549-5900, and our Internet website address is <http://www.ctipatents.com>. The information on our website is not a part of, or incorporated in, this prospectus.

**THE OFFERING**

<b>Common stock offered by selling stockholder</b>	27,748,415 shares.
<b>Common stock outstanding before the offering</b>	213,036,130 shares as of April 17, 2014.
<b>Common stock outstanding after the offering</b>	240,784,545 shares of common stock.
<b>Use of proceeds</b>	<p>We will not receive any proceeds from the sale of shares by the selling stockholder.</p> <p>We may receive up to an aggregate of approximately \$3.5 million in additional gross proceeds upon the exercise of the warrants issued in the November Private Placement (to the extent the registration statement of which this prospectus is a part is then effective and, if applicable, the "cashless exercise" provision is not utilized by the holder). Any proceeds will be used for general corporate and working capital or for other purposes that the Board of Directors deems to be in the best interest of the Company. See "Use of Proceeds."</p>
<b>OTCQB trading symbol:</b>	"COPY"
<b>Dividend policy:</b>	We currently intend to retain any future earnings to fund the development and growth of our business. Therefore, we do not currently anticipate paying cash dividends on our common stock.
<b>Risk factors</b>	The common stock offered hereby involves a high degree of risk and should not be purchased by investors who cannot afford the loss of their entire investment. See "Risk Factors".

## RISK FACTORS

*An investment in our common stock involves a high degree of risk. You should carefully consider the risks described below, together with all of the other information included in this prospectus, before making an investment decision with regard to our securities. The statements contained in or incorporated into this prospectus that are not historic facts are forward-looking statements that are subject to risks and uncertainties that could cause actual results to differ materially from those set forth in or implied by forward-looking statements. If any of the following risks actually occurs, our business, financial condition or results of operations could suffer. In that case, the trading price of our common stock could decline, and you may lose all or part of your investment.*

### **Risks Related to Our Financial Condition and Operations**

***We have a history of losses and may incur additional losses in the future.***

On a cumulative basis we have sustained substantial losses and negative cash flows from operations since our inception. As of October 31, 2013, our accumulated deficit was approximately \$135,163,000. As of October 31, 2013, we had approximately \$898,000 in cash and cash equivalents, and negative working capital of approximately \$1,978,000. We incurred losses of approximately \$10,080,000 in fiscal 2013. We expect to continue incurring significant legal and general and administrative expenses in connection with our operations. As a result, we anticipate that we will incur losses in the future.

***We may need additional funding in the future which may not be available on acceptable terms, or at all, and, if available, may result in dilution to our stockholders.***

Based on currently available information, we believe that our existing cash and cash equivalents together with expected cash flows from patent licensing and enforcement, the sale of our common stock under that certain Stock Purchase Agreement, dated April 23, 2013 (the "Stock Purchase Agreement"), with Aspire Capital Fund LLC ("Aspire Capital"), the gross proceeds of \$3,500,000 received from the November Private Placement of the Debenture, and other potential sources of cash flow will be sufficient to enable us to continue our patent licensing and enforcement activities at current levels for at least 12 months. However, our projections of future cash needs and cash flows may differ from actual results. If current cash on hand and cash that may be generated from patent licensing and enforcement activities are insufficient to satisfy our liquidity requirements, we may seek to sell equity securities or obtain loans from various financial institutions where possible. The sale of additional equity securities or securities convertible into or exercisable for equity securities could result in dilution to our stockholders. We can give no assurance that we will generate sufficient cash flows in the future (through licensing and enforcement of patents, or otherwise) to satisfy our liquidity requirements or sustain future operations, or that other sources of funding, such as sales of equity or debt, would be available, if needed, on favorable terms or at all. We can also give no assurance that we will have sufficient funds to repay our outstanding indebtedness. If we cannot obtain such funding if needed or if we cannot sufficiently reduce operating expenses, we would need to curtail or cease some or all of our operations.

***If we encounter unforeseen difficulties with our business or operations in the future that require us to obtain additional working capital, and we cannot obtain additional working capital on favorable terms, or at all, our business will suffer.***

Our consolidated cash, cash equivalents and short-term investments on hand totaled approximately \$898,000 and \$840,000 at October 31, 2013 and 2012, respectively. To date, we have relied primarily upon cash from the public and private sale of equity and debt securities to generate the working capital needed to finance our operations.

Although we received aggregate gross proceeds of \$3,500,000 from the November Private Placement, we may need substantial additional capital to continue to operate our business.



## [Table of Contents](#)

We may encounter unforeseen difficulties with our business or operations in the future that may deplete our capital resources more rapidly than anticipated. As a result, we may be required to obtain additional working capital in the future through bank credit facilities, public or private debt or equity financings, or otherwise. Other than as disclosed in this prospectus, we have not identified other sources for additional funding and cannot be certain that additional funding will be available on acceptable terms, or at all. If we are required to raise additional working capital in the future, such financing may be unavailable to us on favorable terms, if at all, or may be dilutive to our existing stockholders. If we fail to obtain additional working capital as and when needed, such failure could have a material adverse impact on our business, results of operations and financial condition. Furthermore, such lack of funds may inhibit our ability to respond to competitive pressures or unanticipated capital needs, or may force us to reduce operating expenses, which would significantly harm the business and development of operations.

***Failure to effectively manage our potential growth could place strains on our managerial, operational and financial resources and could adversely affect our business and operating results.***

Our change in business strategy and potential growth is expected to place a strain on managerial, operational and financial resources and systems. Further, as our business grows, we will be required to manage multiple relationships as well as multiple patent enforcement cases. Any growth by us, or an increase in the number of our strategic relationships or litigation, may place additional strain on our managerial, operational and financial resources and systems. Although we may not grow as we expect, if we fail to manage our growth effectively or to develop and expand our managerial, operational and financial resources and systems, our business and financial results will be materially harmed.

***Our equity arrangements with Videocon involve market risks.***

At the same time as we entered into a Technology License Agreement (the "Videocon License Agreement") with Videocon Industries Limited ("Videocon"), we entered into the Share Subscription Agreement with Mars Overseas Limited ("Mars Overseas"), an affiliate of Videocon, to purchase 20,000,000 CopyTele Shares (defined below), and our wholly-owned subsidiary, Copytele International Ltd. ("Copytele International"), entered into the GDR Purchase Agreement to purchase the 1,495,845 Videocon GDRs (defined below). The value of the Videocon GDRs owned by us depends upon, among other things, the value of Videocon's securities in its home market of India, as well as exchange rates between the U.S. dollar and Indian rupee (the currency in which Videocon's securities are traded in its home market). Based on both the duration and the continuing magnitude of the market price declines and the uncertainty of recovery, we recorded other than temporary impairments as of October 31, 2009, 2011 and 2013. We can give no assurances that the value of the Videocon GDRs will not decline in the future and future write downs may occur.

In addition, for the purpose of effecting a lock up of the Videocon GDRs and CopyTele Shares (collectively, the "Securities") for a period of seven years, and therefore restricting both parties from selling or transferring the Securities during such period, CopyTele International and Mars Overseas entered into two Loan and Pledge Agreements. The Videocon GDRs are to be held as security for a loan in the principal amount of \$5,000,000 from Mars Overseas to CopyTele International, and the CopyTele Shares are similarly held as security for a loan in the principal amount of \$5,000,000 from CopyTele International to Mars Overseas. The loan payable to Mars Overseas is solely a liability of CopyTele International without recourse to us (as parent). The loans are for a term of seven years (due November 2014), do not bear interest and prepayment of the loans will not release the lien on the Securities prior to the end of the seven year period. The loan agreements also provide for customary events of default which may result in forfeiture of the Securities by the defaulting party. We can give no assurances that the respective parties receiving such loans will not default on such loans.

### **Risks Related to Patent Monetization and Patent Assertion Activities**

***We may not be able to monetize our patent portfolios which may have an adverse impact on our future operations.***

The primary operations of the Company are patent monetization and patent assertion. We expect to generate revenues and related cash flows from the licensing and enforcement of patents that we currently own and from the rights to license and enforce additional patents we have obtained, and may obtain in the future, from third parties. However, we can give no assurances that we will be able to identify opportunities to exploit such patents or that such opportunities, even if identified, will generate sufficient revenues to sustain future operations.

[Table of Contents](#)

*Certain of our patent portfolios are subject to existing license agreements with AUO and Videocon which may limit our ability to monetize them.*

In the course of entering into the EPD License Agreement and the Nano Display License Agreement with AU Optronics Corp ("AUO"), and the Videocon License Agreement with Videocon, certain rights to our ePaper® Electrophoretic Display patents were licensed to AUO, and certain rights to our Nano Field Emission Display patents were licensed to AUO and Videocon, respectively. We have terminated the EPD License Agreement and the Nano Display License Agreement with AUO although we can give no assurance that AUO will not challenge the effectiveness of such terminations, and we expect that our relationship with Videocon will end by the end of 2014. We intend to take the steps necessary to seek to remove any encumbrances that may inhibit our patent licensing and enforcement efforts in connection with the ePaper® Electrophoretic Display patents, however, we can give no assurance that the patents will be unencumbered. If the patent portfolios remain encumbered or if our termination of the AUO license agreements are deemed to be ineffective, it could limit our ability to assert the ePaper® Electrophoretic Display patents against potential infringers, and otherwise monetize the Nano Field Emission Display Patents. See the section entitled "Legal Proceedings" in our 2013 10-K which has been incorporated by reference herein for additional information.

*While we recently commenced lawsuits against AUO and E Ink, and currently have pending 37 patent infringement lawsuits brought by us or a subsidiary against various entities, it expects such proceedings to be time-consuming and costly and we may not be successful in obtaining judgments in our favor which may adversely affect our financial condition and our ability to operate our business.*

On January 28, 2013, we filed the AUO/E Ink lawsuit and currently we have 37 separate patent infringement lawsuits pending which were brought by us or a subsidiary against various entities. Such patent infringement litigation may continue for several years and may require significant expenditures for legal fees and other expenses. Disputes regarding the assertion of patents and other intellectual property rights are highly complex and technical. The defendants or other third parties involved in the lawsuits may have substantially more resources than we do. Furthermore, such parties may allege defenses and/or file counterclaims in an effort to avoid or limit liability and damages for patent infringement. If such defenses or counterclaims are successful, they may preclude our ability to derive licensing revenue from the patent portfolios. A negative outcome of any such litigation, or one or more claims contained within any such litigation, could materially and adversely impact our business. Additionally, we anticipate that legal fees and other expenses will be significant. Expenses are also dependent on the outcome of such proceedings. We can give no assurance that these lawsuits will be decided in our favor or even if they are that the damages and other remedies will be material.

*Our revenues are unpredictable, may come from a small number of licenses, and may harm our financial condition and the market price of our stock.*

In our fiscal year ended October 31, 2013, our revenue was derived from four licenses, and a substantial portion of our revenue was derived from one license. It is likely that going forward, a substantial portion of our revenue in each reporting period may come from from a small number of licenses, and that one license may account for a substantial portion of our revenue. As a result, our revenues may be unpredictable and may vary from period to period.

*If we are unable to retain top legal counsel to represent us in patent enforcement litigation, it may adversely affect our business.*

The success of our licensing business depends in part upon our ability to retain top legal counsel to prosecute patent infringement litigation. As our patent enforcement actions increase, it will become more difficult to find top legal counsel to handle all of our cases because many of the top law firms may have a conflict of interest that prevents their representation of us. In addition, the terms of retention of such firms may be unacceptable to us.

## [Table of Contents](#)

*We, in certain circumstances, rely on representations, warranties and opinions made by third parties that, if determined to be false or inaccurate, may expose us to certain material liabilities.*

From time to time, we may rely upon the opinions of purported experts. In certain instances, we may not have the opportunity to independently investigate and verify the facts upon which such opinions are made. By relying on these opinions, we may be exposed to liabilities in connection with the licensing and enforcement of certain patents and patent rights which could have a material adverse effect on our operating results and financial condition.

*In connection with patent enforcement actions conducted by certain of our subsidiaries, a court may rule unfavorably in counterclaims filed against us or that we have violated certain statutory, regulatory, federal, local or governing rules or standards, which may expose us and our operating subsidiaries to certain material liabilities.*

In connection with any of our patent enforcement actions, it is possible that a defendant may file counterclaims against us or a court may rule that we have violated statutory authority, regulatory authority, federal rules, local court rules, or governing standards relating to the substantive or procedural aspects of such enforcement actions. In such event, a court may issue monetary sanctions against us or our operating subsidiaries or award attorney's fees and/or expenses to a defendant(s), which could be material, and if we or our operating subsidiaries are required to pay such monetary sanctions, attorneys' fees and/or expenses, such payment could materially harm our operating results and our financial position.

*New legislation, regulations, rules and case-law related to obtaining patents or enforcing patents could significantly increase our operating costs and decrease our revenue.*

We may apply for patents and may spend a significant amount of resources to enforce those patents. If new legislation, regulations or rules are implemented either by Congress, the United States Patent and Trademark Office ("USPTO"), or the courts that impact the patent application process, the patent enforcement process or the rights of patent holders, these changes could negatively affect our expenses and revenue. For example, new rules regarding the burden of proof in patent enforcement actions could significantly increase the cost of our enforcement actions, new standards or limitations on liability for patent infringement could negatively impact our revenue derived from such enforcement actions, and potential new rules requiring that the losing party pay legal fees of the prevailing party could also significantly increase the cost of our enforcement actions.

United States patent laws were recently amended with the enactment of the Leahy-Smith America Invents Act, or the America Invents Act, which took effect on March 16, 2013. The America Invents Act includes a number of significant changes to U.S. patent law. In general, the legislation attempts to address issues surrounding the enforceability of patents and the increase in patent litigation by, among other things, establishing new procedures for patent litigation. For example, the America Invents Act changes the way that parties may be joined in patent infringement actions, increasing the likelihood that such actions will need to be brought against individual parties allegedly infringing by their respective individual actions or activities. The America Invents Act and its implementation increases the uncertainties and costs surrounding the enforcement of our patented technologies, which could have a material adverse effect on our business and financial condition.

In addition, the U.S. Department of Justice ("DOJ") has conducted reviews of the patent system to evaluate the impact of patent assertion entities on industries in which those patents relate. It is possible that the findings and recommendations of the DOJ could impact the ability to effectively license and enforce standards-essential patents and could increase the uncertainties and costs surrounding the enforcement of any such patented technologies.

Further, in various pending litigation and appeals in the United States Federal courts, various arguments and legal theories are being advanced to potentially limit the scope of damages a patent licensing company such as the Company might be entitled to. Any one of these pending cases could result in new legal doctrines that could make our existing or future patent portfolios less valuable or more costly to enforce.

## [Table of Contents](#)

### *More patent applications are filed each year resulting in longer delays in getting patents issued by the USPTO.*

We hold a number of pending patents. We have identified a trend of increasing patent applications each year, which we believe is resulting in longer delays in obtaining approval of pending patent applications. The application delays could cause delays in recognizing revenue, if any, from these patents and could cause us to miss opportunities to license patents before other competing technologies are developed or introduced into the market.

### *U.S. Federal courts are becoming more crowded, and as a result, patent enforcement litigation is taking longer.*

Patent enforcement actions are almost exclusively prosecuted in U.S. Federal court. Federal trial courts that hear patent enforcement actions also hear criminal cases. Criminal cases always take priority over patent enforcement actions. As a result, it is difficult to predict the length of time it will take to complete an enforcement action. Moreover, we believe there is a trend in increasing numbers of civil lawsuits and criminal proceedings before United States Judges, and as a result, we believe that the risk of delays in patent enforcement actions will have a significant effect on our business in the future unless this trend changes.

### *Any reductions in the funding of the USPTO could have an adverse impact on the cost of processing pending patent applications and the value of those pending patent applications.*

Our primary asset is our patent portfolios, including pending patent applications before the USPTO. The value of our patent portfolios is dependent upon the issuance of patents in a timely manner, and any reductions in the funding of the USPTO could negatively impact the value of our assets. Further, reductions in funding from Congress could result in higher patent application filing and maintenance fees charged by the USPTO, causing an unexpected increase in our expenses.

### *Competition is intense in the industries in which we do business and as a result, we may not be able to grow or maintain our market share for our technologies and patents.*

Our licensing business may compete with venture capital firms and various industry leaders for technology licensing opportunities. Many of these competitors may have more financial and human resources than we do. As we become more successful, we may find more companies entering the market for similar technology opportunities, which may reduce our market share in one or more technology industries that we currently rely upon to generate future revenue.

### *Our patented technologies have an uncertain market value.*

Many of our patents and technologies are in the early stages of adoption in the commercial and consumer markets. Demand for some of these technologies is untested and is subject to fluctuation based upon the rate at which our licensees will adopt our patents and technologies in their products and services.

### *As patent enforcement litigation becomes more prevalent, it may become more difficult for us to voluntarily license our patents.*

We believe that the more prevalent patent enforcement actions become, the more difficult it will be for us to voluntarily license our patents. As a result, we may need to increase the number of our patent enforcement actions to cause infringing companies to license the patent or pay damages for lost royalties. This may increase the risks associated with an investment in our company.

## [Table of Contents](#)

*Weak global economic conditions may cause infringing parties to delay entering into licensing agreements, which could adversely affect our financial condition and operating results.*

Our business plan depends significantly on economic conditions, and the United States and world economies are only beginning to emerge from weak economic conditions. Uncertainty about global economic conditions poses a risk as businesses may postpone spending in response to tighter credit, negative financial news and declines in income or asset values. This response could have a material negative effect on the willingness of parties infringing on our patent assets to enter into licensing or other revenue generating agreements voluntarily which could cause material harm to our business.

*We are dependent upon a few key personnel and the loss of their services could adversely affect us.*

Our future success to monetize our patent portfolios will depend on the efforts of our President and Chief Executive Officer, Robert A. Berman, and our Senior Vice President – Engineering, John Roop, and our strategic advisor, Dr. Amit Kumar. While we maintain “key person” life insurance on Mr. Berman, we do not maintain such “key person” life insurance on Messrs. Roop or Dr. Kumar. The loss of the services of any such persons could have a material adverse effect on our business and operating results.

### **Risks Related to Our Common Stock**

*The availability of shares for sale in the future could reduce the market price of our common stock.*

In the future, we may issue securities to raise cash for operations and acquisitions of patents and/or companies. We have and in the future may issue securities convertible into our common stock. Any of these events may dilute stockholders' ownership interests in our company and have an adverse impact on the price of our common stock.

In addition, sales of a substantial amount of our common stock in the public market, or the perception that these sales may occur, could reduce the market price of our common stock. This could also impair our ability to raise additional capital through the sale of our securities.

Any actual or anticipated sales of shares by our stockholders or by Aspire Capital may cause the trading price of our common stock to decline. Additional issuances of shares to Aspire Capital may result in dilution to the interests of other holders of our common stock. The sale of a substantial number of shares of our common stock by our stockholders including Aspire Capital, or anticipation of such sales, could make it more difficult for us to sell equity or equity-related securities in the future at a time and at a price that we might otherwise wish to effect sales.

*Delaware law and our charter documents contain provisions that could discourage or prevent a potential takeover of our company that might otherwise result in our stockholders receiving a premium over the market price of their shares.*

Provisions of Delaware General Corporation Law (“DGCL”) and our certificate of incorporation and bylaws could make the acquisition of our company by means of a tender offer, proxy contest or otherwise, and the removal of incumbent officers and directors, more difficult. These provisions include:

- Section 203 of the DGCL, which prohibits a merger with a 15%-or-greater stockholder, such as a party that has completed a successful tender offer, until three years after that party became a 15%-or-greater stockholder;
- The authorization in our certificate of incorporation of undesignated preferred stock, which could be issued without stockholder approval in a manner designed to prevent or discourage a takeover; and
- Provisions in our bylaws regarding stockholders' rights to call a special meeting of stockholders limit such rights to stockholders holding together at least a majority of shares of the Company entitled to vote at the meeting, which could make it more difficult for stockholders to wage a proxy contest for control of our Board of Directors or to vote to repeal any of the anti-takeover provisions contained in our certificate of incorporation and bylaws.

Together, these provisions may make the removal of management more difficult and may discourage transactions that could otherwise involve payment of a premium over prevailing market prices for our common stock.

## [Table of Contents](#)

*We may fail to meet market expectations because of fluctuations in quarterly operating results, which could cause the price of our common stock to decline.*

Our reported revenues and operating results have fluctuated in the past and may continue to fluctuate significantly from quarter to quarter in the future. It is possible that in future periods, revenues could fall below the expectations of securities analysts or investors, which could cause the market price of our common stock to decline. The following are among the factors that could cause our operating results to fluctuate significantly from period to period:

- the dollar amount of agreements executed in each period, which is primarily driven by the nature and characteristics of the technology being licensed and/or the magnitude of infringement associated with a specific licensee;
- the specific terms and conditions of agreements executed in each period and/or the periods of infringement contemplated by the respective payments;
- fluctuations in the total number of agreements executed;
- fluctuations in the sales results or other royalty-per-unit activities of our licensees that impact the calculation of license fees due;
- the timing of the receipt of periodic license fee payments and/or reports from licensees;
- fluctuations in the net number of active licensees period to period;
- costs related to acquisitions, alliances, licenses and other efforts to expand our operations;
- the timing of payments under the terms of any customer or license agreements into which we may enter;
- expenses related to, and the timing and results of, patent filings and other enforcement proceedings relating to intellectual property rights, as more fully described in this section; and
- the outcome of any of our patent infringement lawsuits.

*Technology company stock prices are especially volatile, and this volatility may depress the price of our common stock.*

The stock market has experienced significant price and volume fluctuations, and the market prices of technology companies have been highly volatile. We believe that various factors may cause the market price of our common stock to fluctuate, perhaps substantially, including, among others, the following:

- announcements of developments in our patent enforcement actions;
- developments or disputes concerning our patents;
- our or our competitors' technological innovations;
- developments in relationships with licensees;
- variations in our quarterly operating results;
- our failure to meet or exceed securities analysts' expectations of our financial results;

## [Table of Contents](#)

- a change in financial estimates or securities analysts' recommendations;
- changes in management's or securities analysts' estimates of our financial performance;
- changes in market valuations of similar companies;
- the current sovereign debt crises affecting several countries in the European Union and concerns about sovereign debt of the United States;
- announcements by us or our competitors of significant contracts, acquisitions, strategic partnerships, joint ventures, capital commitments, new technologies, or patents; and
- the timing of or our failure to complete significant transactions.

In addition, we believe that fluctuations in our stock price during applicable periods can also be impacted by court rulings and/or other developments in our patent licensing and enforcement actions. Court rulings in patent enforcement actions are often difficult to understand, even when favorable or neutral to the value of our patents and our overall business, and we believe that investors in the market may overreact, causing fluctuations in our stock prices that may not accurately reflect the impact of court rulings on our business operations and assets.

In the past, companies that have experienced volatility in the market price of their stock have been the objects of securities class action litigation. If our common stock was the object of securities class action litigation, it could result in substantial costs and a diversion of management's attention and resources, which could materially harm our business and financial results.

### ***Our common stock is subject to the SEC's penny stock rules which may make our shares more difficult to sell.***

Our common stock fits the definition of a penny stock and therefore is subject to the rules adopted by the SEC regulating broker-dealer practices in connection with transactions in penny stocks. The SEC rules may have the effect of reducing trading activity in our common stock making it more difficult for investors to sell their shares. The SEC's rules require a broker or dealer proposing to effect a transaction in a penny stock to deliver the customer a risk disclosure document that provides certain information prescribed by the SEC, including, but not limited to, the nature and level of risks in the penny stock market. The broker or dealer must also disclose the aggregate amount of any compensation received or receivable by him in connection with such transaction prior to consummating the transaction. In addition, the SEC's rules also require a broker or dealer to make a special written determination that the penny stock is a suitable investment for the purchaser and receive the purchaser's written agreement to the transaction before completion of the transaction. The existence of the SEC's rules may result in a lower trading volume of our common stock and lower trading prices.

***We do not anticipate declaring any cash dividends on our common stock which may adversely impact the market price of our stock.***

We have never declared or paid cash dividends on our common stock and do not plan to pay any cash dividends in the near future. Our current policy is to retain all funds and any earnings for use in the operation and expansion of our business. If we do not pay dividends, our stock may be less valuable to you because a return on your investment will only occur if our stock price appreciates.

[Table of Contents](#)

*The securities issued in our private placements may dilute your percentage ownership interest and may also result in downward pressure on the price of our common stock.*

In connection with our private placements in February 2011, January 2013 and November 2013, we have outstanding convertible debentures and warrants which are convertible into or exercisable for an aggregate of 46,727,653 shares of our common stock, at prices ranging from \$0.15 to \$0.3784 per share. In addition, as we are required to register these shares for resale by the holders, it is possible that a significant number of shares could be sold at the same time. Because the market for our common stock is thinly traded, the sales and/or the perception that those sales may occur, could adversely affect the market price of our common stock. Furthermore, the mere existence of a significant number of shares of common stock issuable upon conversion of the debentures or the exercise of warrants may be perceived by the market as having a potential dilutive effect, which could lead to a decrease in the price of our common stock.

*We are registering an aggregate of 27,748,415 shares of common stock that may be issued upon conversion of the Debenture and upon exercise of the Warrant. The sale of such shares could depress the market price of our common stock.*

We are registering an aggregate of 27,748,415 shares of common stock under the registration statement of which this prospectus forms a part for issuance pursuant to our registration obligations contained in the Debenture. Notwithstanding ownership limitations in the Debenture, the 27,748,415 shares represent approximately 11.64% of our shares of common stock outstanding assuming the conversion and exercise rights of the Debenture and Warrant in our November Private Placements at the time the registration statement is filed.

*The sale of our common stock to Aspire Capital may cause substantial dilution to our existing stockholders and the sale, actual or anticipated, of the shares of common stock acquired by Aspire Capital could cause the price of our common stock to decline.*

We have the right to sell up to \$10 million of our shares of common stock to Aspire Capital, including the 5,380,000 shares sold to Aspire Capital since April 23, 2013, and have issued 3,500,000 shares to Aspire Capital as a commitment fee. We were obligated to register these shares with the SEC. The registration statement declared effective by the SEC on June 19, 2013 registers 20,000,000 shares for issuance and sale to Aspire Capital under the Purchase Agreement. It is anticipated that these shares will be sold by Aspire Capital pursuant to a registration statement or sold in reliance on an exemption from registration in Rule 144 of the Securities Act of 1933, as amended (the "Securities Act").

Any actual or anticipated sales of shares by Aspire Capital may cause the trading price of our common stock to decline. Additional issuances of shares to Aspire Capital may result in dilution to the interests of other holders of our common stock. However, we have the right to control the timing and amount of sales of our shares to Aspire Capital, and the purchase agreement may be terminated by us at any time at our discretion without any penalty or cost to us.

*We may not have access to the full amount available under the Stock Purchase Agreement with Aspire Capital.*

In order for us to receive the full \$10 million proceeds under the Stock Purchase Agreement it is unlikely that the 20,000,000 shares registered will be sufficient. Accordingly, our ability to have access to the full amount under the Stock Purchase Agreement with Aspire Capital will likely be subject to our ability to prepare and file one or more additional registration statements registering the resale of additional shares. These subsequent registration statements may be subject to review and comment by the staff of the SEC, and will require the consent of our independent registered public accounting firm. Therefore, the timing of effectiveness of these subsequent registration statements cannot be assured. The effectiveness of these subsequent registration statements is a condition precedent to our ability to sell the shares of common stock subject to these subsequent registration statements to Aspire Capital under the Stock Purchase Agreement.

*Raising funds by issuing equity or debt securities could dilute the value of the common stock and impose restrictions on our working capital.*

If we were to raise additional capital by issuing equity securities, including sales of shares of common stock to Aspire Capital, the value of the then outstanding common stock would be reduced, unless the additional equity securities were issued at a price equal to or greater than the market value of the common stock at the time of issuance of the new securities. If the additional equity securities were issued at a per share price less than the per share value of the outstanding shares, then all of the outstanding shares would suffer a dilution in value with the issuance of such additional shares. Further, the issuance of debt securities in order to obtain additional funds may impose restrictions on our operations and may impair our working capital as we service any such debt obligations.



## USE OF PROCEEDS

We will not receive any proceeds from the sale of shares by the selling stockholder. However, we may receive proceeds from the sale of securities upon the exercise of the warrants issued in the November Private Placement (to the extent the registration statement of which this prospectus is a part is then effective and, if applicable, the "cashless exercise" provision is not utilized by the holder). As of the date of this prospectus, we have not received proceeds from such exercises.

Any net proceeds we receive will be used for general corporate and working capital or other purposes that the Board of Directors deems to be in the best interest of the Company. As of the date of this prospectus, we cannot specify with certainty the particular uses for the net proceeds we may receive. Accordingly, we will retain broad discretion over the use of these proceeds, if any.

## SELLING STOCKHOLDER

27,748,415 shares of common stock were issued or are issuable to the selling stockholder pursuant to transactions exempt from registration under the Securities Act. All of the common stock offered by this prospectus is being offered by the selling stockholder for its own account.

On November 11, 2013, we entered into a subscription agreement with Adaptive Capital, an institutional investor, pursuant to which we issued a 6% Convertible Debenture with a principal amount of \$3,500,000 and a Warrant to purchase 9,249,472 shares of common stock.

The Debenture matures on November 11, 2016, bears interest at the rate of 6% payable annually and is convertible into shares of common stock at a price per share of \$0.1892, which was 100% of the volume weighted average closing sales price of the common stock for the 30 trading days prior to the closing date of the private placement. The Debenture contains full ratchet anti-dilution protection in the event that we enter into a new financing arrangement to issue additional shares of common stock at an effective net price of less than \$0.1419 (or 75% of the conversion price of the Debenture). The Debenture also provides for standard and customary events of default which, if any of them occurs, would permit the principal of and accrued interest on the Debenture to become or to be declared due and payable, unless the event of default has been cured or the holder of the Debenture has waived in writing the event of default.

The Warrant grants the holder the right to purchase the Warrant Shares at the purchase price per share of \$0.3784 on or before November 11, 2016. If there is not an effective registration statement covering the Warrant Shares, the Warrant may be exercised on a cashless basis, otherwise the warrant holder must exercise for cash. If the entire Warrant were exercised, the Company would receive \$3,500,000 in gross proceeds.

Pursuant to the Debenture and the Warrant, Adaptive Capital may not convert or exercise its Debenture or Warrant if such conversion or exercise would result in Adaptive Capital beneficially owning in excess of 4.99% of our then issued and outstanding common stock. Adaptive Capital may increase this limitation (but in no event exceed 9.99% of the number of shares of Common Stock issued and outstanding) by providing us with 61 days' notice that such holder wishes to increase this limitation.

In connection with the November Private Placement, we granted Adaptive Capital registration rights with respect to the shares issuable upon conversion of the Debenture (the "Conversion Shares") and the Warrant Shares. We are obligated to use our reasonable best efforts to cause a registration statement registering for resale the Conversion Shares and the Warrant Shares to be filed no later than February 9, 2014 and to keep the registration statement effective until the Conversion Shares and the Warrant Shares can be sold under without restriction under Rule 144 of the Securities Act or such earlier date when all Conversion Shares and the Warrant Shares have been sold publicly; provided, however, we are not required to keep the Registration Statement effective after November 11, 2016.

### Selling Stockholder Table

The following table sets forth certain information as of April 17, 2014 regarding the selling stockholder and the shares offered by the selling stockholder in this prospectus. The table assumes the full conversion of the Debenture and the complete exercise of the Warrant by the selling stockholder. Except as indicated in the footnotes to the following table, the selling stockholder has sole voting and investment power with respect to the shares set forth opposite such stockholder's name. The percentage of ownership of the selling stockholder in the following table is based upon 213,036,130 shares of common stock outstanding as of April 17, 2014.

Except as set forth below, the selling stockholder has not held a position as an officer or director of the Company, nor has the selling stockholder had any material relationship of any kind with us or any of our affiliates. All information with respect to share ownership has been furnished by the selling stockholder. The common stock being offered is being registered to permit secondary trading of the shares and the selling stockholder may offer all or part of the common stock owned for resale from time to time. The selling stockholder has no family relationships with our officers, directors or controlling stockholders. The selling stockholder is not a registered broker-dealer but Adaptive Capital is an affiliate of a registered broker-dealer. Adaptive Capital purchased the Debenture and Warrant in the ordinary course of business and had no agreement or understandings, directly or indirectly, with any person to distribute the Conversion Shares or the Warrant Shares at the time of the November Private Placement.

[Table of Contents](#)

The term “selling stockholder” also includes any transferees, pledges, donees, or other successors in interest to the selling stockholder named in the table below. To our knowledge, subject to applicable community property laws, each person named in the table has sole voting and investment power with respect to the common stock set forth opposite such person’s name. We will file a supplement to this prospectus (or a post-effective amendment hereto, if necessary) to name successors to any named selling stockholder who is able to use this prospectus to resell the securities registered hereby.

<u>Name of Selling Stockholder</u>	<u>Number of Shares of Common Stock Owned Prior to Offering</u>	<u>Maximum Number of Shares of Common Stock to be Sold Pursuant to this Prospectus (1)</u>	<u>Percentage of Common Stock Owned</u>	
			<u>Number of Shares of Common Stock Owned After Offering Assuming All Shares are Sold (2)</u>	<u>Shares are Sold (2)</u>
Adaptive Capital, LLC (3)	0	27,748,415	0	0%

(1) Consists of the shares issued or issuable in our November Private Placement upon conversion of the Debenture and exercise of the Warrant.

(2) Assumes the sale of all shares offered pursuant to this prospectus.

(3) The securities being registered consist of (i) 18,498,943 shares of common stock issuable upon the conversion of the Debenture and (ii) 9,249,472 shares of common stock issuable upon the exercise of Warrant. Tahoe Pacific Corp. exercises the voting and investment control for Adaptive Capital pursuant to an asset management agreement. James Brown, the President of Tahoe Pacific Corp., exercises voting and investment control for Tahoe Pacific Corp.

**PLAN OF DISTRIBUTION**

The common stock may be sold or distributed from time to time by the selling stockholder directly to one or more purchasers or through brokers, dealers, or underwriters who may act solely as agents at market prices prevailing at the time of sale, at prices related to the prevailing market prices, at negotiated prices, or at fixed prices, which may be changed on any stock exchange, market or trading facility on which the shares are traded or in private transactions. The sale of the common stock offered by this prospectus may be effected in one or more of the following methods:

- ordinary brokerage transactions and transactions in which the broker-dealer solicits purchasers;
- transactions involving cross or block trades;
- purchases by a broker-dealer as principal and resale by the broker-dealer for its account;
- an exchange distribution in accordance with the rules of the applicable exchange;
- in privately negotiated transactions;
- short sales after the registration statement, of which this prospectus forms a part, becomes effective;
- broker-dealers may agree with the selling stockholder to sell a specified number of such shares at a stipulated price per share;
- “at the market” into an existing market for the common stock;
- through the writing of options on the shares;
- a combination of any such methods of sale; and
- any other method permitted pursuant to applicable law.

In order to comply with the securities laws of certain states, if applicable, the shares may be sold only through registered or licensed brokers or dealers. In addition, in certain states, the shares may not be sold unless they have been registered or qualified for sale in the state or an exemption from the registration or qualification requirement is available and complied with.

Adaptive Capital may also sell shares of common stock under Rule 144 promulgated under the Securities Act, if available, rather than under this prospectus. In addition, Adaptive Capital may transfer the shares of common stock by other means not described in this prospectus.

The selling stockholder may also sell the shares directly to market makers acting as principals and/or broker-dealers acting as agents for themselves or their customers. Such broker-dealers may receive compensation in the form of discounts, concessions or commissions from the selling stockholder and/or the purchasers of shares for whom such broker-dealers may act as agents or to whom they sell as principal or both, which compensation as to a particular broker-dealer might be in excess of customary commissions. Market makers and block purchasers purchasing the shares will do so for their own account and at their own risk. It is possible that the selling stockholder will attempt to sell shares of common stock in block transactions to market makers or other purchasers at a price per share which may be below the then market price. The selling stockholder cannot assure that all or any of the shares offered in this prospectus will be issued to, or sold by, such selling stockholder.

Brokers, dealers, underwriters, or agents participating in the distribution of the shares as agents may receive compensation in the form of commissions, discounts, or concessions from the selling stockholder and/or purchasers of the common stock for whom the broker-dealers may act as agent. Adaptive Capital has informed us that each such broker-dealer will receive commissions from Adaptive Capital which will not exceed customary brokerage commissions. The selling stockholder may agree to indemnify any agent, dealer or broker-dealer that participates in transactions involving sales of the shares if liabilities are imposed on that person under the Securities Act.

## [Table of Contents](#)

The selling stockholder acquired the securities offered hereby in the ordinary course of business and has advised us that it has not entered into any agreements, understandings or arrangements with any underwriters or broker-dealers regarding the sale of their shares of common stock, nor is there an underwriter or coordinating broker acting in connection with a proposed sale of shares of common stock by such selling stockholder. If we are notified by the selling stockholder that any material arrangement has been entered into with a broker-dealer for the sale of shares of common stock, if required, we will file a supplement to this prospectus.

Adaptive Capital and its affiliates have agreed not to engage in any direct or indirect short selling or hedging of our common stock through February 9, 2014. With regard only to the shares it sells for its own behalf, Adaptive Capital may be deemed an "underwriter" within the meaning of the Securities Act. This offering as it relates to Adaptive Capital will terminate on the date that all shares issued to and issuable to Adaptive Capital that are offered by this prospectus have been sold by Adaptive Capital.

We may suspend the sale of shares by the selling stockholder pursuant to this prospectus for certain periods of time for certain reasons, including if the prospectus is required to be supplemented or amended to include additional material information.

If the selling stockholder uses this prospectus for any sale of the shares of common stock, such selling stockholder will be subject to the prospectus delivery requirements of the Securities Act.

### **Regulation M**

The anti-manipulation rules of Regulation M under the Exchange Act of 1934, as amended (the "Exchange Act") may apply to sales of our common stock and activities of the selling stockholder.

We have advised the selling stockholder that while it is engaged in a distribution of the shares included in this prospectus it is required to comply with Regulation M promulgated under the Exchange Act. With certain exceptions, Regulation M precludes the selling stockholder, any affiliated purchasers, and any broker-dealer or other person who participates in the distribution from bidding for or purchasing, or attempting to induce any person to bid for or purchase any security which is the subject of the distribution until the entire distribution is complete. Regulation M also prohibits any bids or purchases made in order to stabilize the price of a security in connection with the distribution of that security. All of the foregoing may affect the marketability of the shares offered hereby this prospectus.

## EXPERTS

The consolidated financial statements of CopyTele, Inc. and subsidiaries as of October 31, 2012 and 2013, and for each of the years in the two-year period ended October 31, 2013, have been incorporated by reference in the registration statement in reliance upon the report of Haskell & White LLP, independent registered public accounting firm, and upon the authority of said firm as experts in accounting and auditing.

## LEGAL MATTERS

The validity of the common stock being offered pursuant to this registration statement have been passed upon for us by Ellenoff Grossman & Schole LLP located at 1345 Avenue of the Americas, New York, NY 10105.

## WHERE TO GET MORE INFORMATION

We file annual, quarter and periodic reports, proxy statements and other information with the Securities and Exchange Commission using the Commission's EDGAR system. You may inspect these documents and copy information from them at the Commission's offices at public reference room at 100 F Street, NE, Washington, D.C. 20549. You may obtain information on the operation of the public reference room by calling the SEC at 1-800-SEC-0330. The Commission maintains a web site that contains reports, proxy and information statements and other information regarding registrants that file electronically with the Commission. The address of such site is <http://www.sec.gov>.

We have filed a registration statement with the Commission relating to the offering of the shares. The registration statement contains information which is not included in this prospectus. You may inspect or copy the registration statement at the Commission's public reference facilities or its website.

You should rely only on the information contained in this prospectus. We have not authorized any person to provide you with any information that is different.

## INCORPORATION OF DOCUMENTS BY REFERENCE

The SEC allows us to "incorporate by reference" in this prospectus information that we file with them, which means we can disclose important information to you by referring you to other documents that contain that information. The information we incorporate by reference is considered to be part of this prospectus and information we later file with the SEC will automatically update or supersede the information in this prospectus. The following documents filed by us with the SEC pursuant to Section 13 of the Exchange Act and any future filings under Section 13(a), 13(c), 14 or 15(d) of the Exchange Act, made before the termination of the offering are incorporated by reference herein:

1. Our Annual Report on Form 10-K for the year ended October 31, 2013, filed with the SEC on January 16, 2014, as amended on Form 10-K/A and filed with the SEC on January 17, 2014;
2. Our Definitive Proxy Statement on Schedule 14A filed with the SEC on August 27, 2013, as amended on Schedule 14A and filed with the SEC on August 27, 2013.
3. Our Current Report on Form 8-K filed with the SEC on November 11, 2013; and
4. The description of our common stock contained in our Current Report on Form 8-K filed on March 31, 2014 and as it may further be amended from time to time.

All documents that we filed with the SEC pursuant to Sections 13(a), 13(c), 14, and 15(d) of the Exchange Act subsequent to the date of this registration statement and prior to the filing of a post-effective amendment to this registration statement that indicates that all securities offered under this prospectus have been sold, or that deregisters all securities then remaining unsold, will be deemed to be incorporated in this registration statement by reference and to be a part hereof from the date of filing of such documents.

Any statement contained in this prospectus or in a document incorporated or deemed to be incorporated by reference into this prospectus will be deemed to be modified or superseded for purposes of this prospectus to the extent that a statement contained in this prospectus or any other subsequently filed document that is deemed to be incorporated by reference into this prospectus modifies or supersedes the statement. Any statement so modified or superseded will not be deemed, except as so modified or superseded, to constitute a part of this prospectus. None of the information that we disclose under Items 2.02 or 7.01 of any Current Report on Form 8-K or any corresponding information, either furnished under Item 9.01 or included as an exhibit therein, that we may from time to time furnish to the SEC will be incorporated by reference into, or otherwise included in, this prospectus, except as otherwise expressly set forth in the relevant document. Subject to the foregoing, all information appearing in this prospectus is qualified in its entirety by the information appearing in the documents incorporated by reference.

[Table of Contents](#)

You may request, orally or in writing, a copy of these documents, which will be provided to you at no cost (other than exhibits, unless such exhibits are specifically incorporated by reference), by contacting Robert A. Berman, c/o CopyTele, Inc., at 900 Walt Whitman Road, Melville, NY 11747. Our telephone number is (631) 549-5900. Information about us is also available at our website at <http://www.ctipatents.com>. However, the information in our website is not a part of this prospectus and is not incorporated by reference.

[Table of Contents](#)

You should rely only on the information contained in this document. We have not authorized anyone to provide you with information that is different. This document may only be used where it is legal to sell these securities. The information in this document may only be accurate on the date of this document.

Additional risks and uncertainties not presently known or that are currently deemed immaterial may also impair our business operations. The risks and uncertainties described in this document and other risks and uncertainties which we may face in the future will have a greater impact on those who purchase our common stock. These purchasers will purchase our common stock at the market price or at a privately negotiated price and will run the risk of losing their entire investment.

## **CopyTele, Inc.**

### **27,748,415 Shares of Common Stock**

PROSPECTUS

May 6, 2014

## PART II

## INFORMATION NOT REQUIRED IN PROSPECTUS

**Item 14. Other Expenses of Issuance and Distribution.**

The Company is paying all expenses of the offering. No portion of these expenses will be borne by the selling security holder. The selling security holder, however, will pay any other expenses incurred in selling its common stock, including any brokerage commissions or costs of sale. Following is an itemized statement of all expenses in connection with the issuance and distribution of the securities to be registered. All of the amounts shown are estimates, except for the SEC Registration Fees.

<b>Type</b>	<b>Amount</b>
SEC Registration Fee	\$ 1,382
Legal Fees and Expenses	\$ 35,000
Accounting Fees and Expenses	\$ 15,000
Transfer Agent Fees	\$ 0
Miscellaneous Expenses	\$ 1,656
<b>Total</b>	<b>\$ 53,038</b>

**Item 15. Indemnification of Directors and Officers.**

Under Section 145 of the DGCL, a corporation may indemnify its directors, officers, employees and agents and its former directors, officers, employees and agents and those who serve, at the corporation's request, in such capacities with another enterprise, against expenses (including attorney's fees), as well as judgments, fines and settlements, actually and reasonably incurred in connection with the defense of any action, suit or proceeding (other than an action by or in the right of the corporation) in which they or any of them were or are made parties or are threatened to be made parties by reason of their serving or having served in such capacity. The DGCL provides, however, that such person must have acted in good faith and in a manner he or she reasonably believed to be in (or not opposed to) the best interests of the corporation and, in the case of a criminal action, such person must have had no reasonable cause to believe his or her conduct was unlawful. In addition, the DGCL does not permit indemnification in an action or suit by or in the right of the corporation, where such person has been adjudged liable to the corporation for negligence or misconduct in the performance of his/her duty to the corporation, unless, and only to the extent that, a court determines that such person fairly and reasonably is entitled to indemnity for costs the court deems proper in light of liability adjudication. Indemnity is mandatory to the extent a claim, issue or matter has been successfully defended.



[Table of Contents](#)

Section 102(b)(7) of the DGCL permits a corporation to include in its certificate of incorporation a provision eliminating or limiting the personal liability of a director to the corporation or its shareholders for monetary damages for breach of fiduciary duty as a director, provided that such provision shall not eliminate or limit the liability of a director (i) for any breach of the director's duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the DGCL (relating to unlawful payment of dividends and unlawful stock purchase or redemption) or (iv) for any transaction from which the director derived an improper personal benefit.

Article XIII of the By-Laws of the Company contains provisions which are designed to provide mandatory indemnification of directors and officers of the Company to the full extent permitted by law, as now in effect or later amended. The By-Laws further provide that, if and to the extent required by the DGCL, an advance payment of expenses to a director or officer of the Company that is entitled to indemnification will only be made upon delivery to the Company of an undertaking, by or on behalf of the director or officer, to repay all amounts so advanced if it is ultimately determined that such director is not entitled to indemnification.

**Item 16. Exhibits.**

- 4.1 Common Stock Purchase Warrant issued to ZQX Advisors, LLC on August 20, 2009. (Incorporated by reference to Exhibit 4.1 to our Form 10-K for the fiscal year ended October 31, 2009.)
- 4.2 Common Stock Purchase Warrant issued to ZQX Advisors, LLC on August 20, 2009. (Incorporated by reference to Exhibit 4.2 to our Form 10-K for the fiscal year ended October 31, 2009.)
- 4.3 Registration Rights Agreement, dated as of April 23, 2013, by and between the Company and Aspire Capital Fund, LLC. (Incorporated by reference to Exhibit 4.3 to our Form S-1, dated April 24, 2013.)
- 4.4 Common Stock Purchase Warrant issued to Adaptive Capital, LLC on November 11, 2013. \*
- 10.1 Subscription Agreement, dated as of November 11, 2013, by and between the Company and Adaptive Capital, LLC. \*
- 10.2 Convertible Debenture in favor of Adaptive Capital, LLC, dated as of November 11, 2013. \*
- 5.1 Opinion of Ellenoff Grossman & Schole LLP \*
- 23.1 Consent of Haskell & White LLP (Filed herewith.)
- 23.2 Consent of Ellenoff Grossman & Schole LLP (included in Exhibit 5.1)
- 24.1 Power of Attorney\*
- \* Previously filed.

[Table of Contents](#)

**Item 17. Undertakings.**

(a) The undersigned Company hereby undertakes:

(1) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of the securities at that time shall be deemed to be the initial bona fide offering thereof.

(2) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(3) That, for the purpose of determining liability under the Securities Act of 1933 to any purchaser:

(i) If the registrant is relying on Rule 430B (§230.430B of this chapter):

(A) Each prospectus filed by the registrant pursuant to Rule 424(b)(3) (§230.424(b)(3) of this chapter) shall be deemed to be part of the registration statement as of the date the filed prospectus was deemed part of and included in the registration statement; and

(B) Each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5), or (b)(7) (§230.424(b)(2), (b)(5), or (b)(7) of this chapter) as part of a registration statement in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii), or (x) (§230.415(a)(1)(i), (vii), or (x) of this chapter) for the purpose of providing the information required by section 10(a) of the Securities Act of 1933 shall be deemed to be part of and included in the registration statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the registration statement relating to the securities in the registration statement to which that prospectus relates, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof. *Provided, however*, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such effective date, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such effective date; or

(ii) If the registrant is subject to Rule 430C (§230.430C of this chapter), each prospectus filed pursuant to Rule 424(b) as part of a registration statement relating to an offering, other than registration statements relying on Rule 430B or other than prospectuses filed in reliance on Rule 430A (§230.430A of this chapter), shall be deemed to be part of and included in the registration statement as of the date it is first used after effectiveness. *Provided, however*, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such first use, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such date of first use.

(4) That, for the purpose of determining liability of the registrant under the Securities Act of 1933 to any purchaser in the initial distribution of the securities, the undersigned registrant undertakes that in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

[Table of Contents](#)

(i) Any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424;

(ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant;

(iii) The portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and

(iv) Any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.

(b) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the registrant's annual report pursuant to section 13(a) or section 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the Company pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act of 1933 and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act of 1933 and will be governed by the final adjudication of such issue.

(d) The undersigned registrant hereby undertakes that:

(1) For purposes of determining any liability under the Securities Act of 1933, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the registrant pursuant to Rule 424(b) (1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective.

(2) For the purpose of determining any liability under the Securities Act of 1933, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

**SIGNATURES**

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-3 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Melville, State of New York on this 6<sup>th</sup> day of May, 2014.

**COPYTELE, INC.**

Dated: May 6, 2014

By: /s/ Robert A. Berman  
Robert A. Berman,  
President and Chief  
Executive Officer

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

By: /s/ Robert A. Berman                      May 6, 2014  
Robert A. Berman  
President, Chief Executive  
Officer  
and Director (Principal Executive  
Officer)

By: \_\_\_\_\_ \*                                  May 6, 2014  
Henry P. Herms  
Vice President - Finance,  
Chief Financial Officer and  
Director (Principal Financial and  
Accounting Officer)

By: \_\_\_\_\_ \*                                  May 6, 2014  
Lewis H. Titterton Jr.  
Chairman of the Board

By: \_\_\_\_\_ \*                                  May 6, 2014  
Dr. Amit Kumar  
Director

By: \_\_\_\_\_ \*                                  May 6, 2014  
Kent B. Williams  
Director

By: \_\_\_\_\_ \*                                  May 6, 2014  
Bruce F. Johnson  
Director

\*By: /s/ Robert A. Berman  
Robert A. Berman, Attorney-in-  
Fact

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**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We consent to the incorporation by reference in this Amendment No. 2 to the Registration Statement (No. 333-193826) on Form S-3 of CopyTele, Inc. (the “Company”) of our report dated January 16, 2014, relating to our audit of the Company’s consolidated financial statements as of October 31, 2013 and 2012, and for each of the years ended October 31, 2013 and 2012, included in the Company’s Annual Report on Form 10-K for the year ended October 31, 2013. We also consent to the reference to us under the heading “Experts” in the Prospectus, which is part of this Registration Statement.

/s/ Haskell & White LLP

HASKELL & WHITE LLP

Irvine, California  
May 6, 2014