

SEMILEDS CORP

FORM 8-K/A (Amended Current report filing)

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

**FORM 8-K/A
(Amendment No. 1)**

**CURRENT REPORT
Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

Date of Report (date of earliest event reported): **June 30, 2016**

SEMILEDS CORPORATION
(Exact name of registrant as specified in charter)

Delaware
(State or other jurisdiction
of incorporation)

001-34992
(Commission File Number)

20-2735523
(IRS Employer
Identification No.)

**3F, No.11 Ke Jung Rd., Chu-Nan Site,
Hsinchu Science Park, Chu-Nan 350,
Miao-Li County, Taiwan, R.O.C.**
(Address of principal executive offices)

350
(Zip Code)

Registrant's telephone number, including area code: **+886-37-586788**

N/A
(Former name or former address if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12(b) under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 1.01. Entry into a Material Definitive Agreement.

As previously reported on July 6, 2016, SemiLEDs Corporation (the “Company”) entered into a definitive purchase agreement effective July 6, 2016 (the “Agreement”) with Dr. Peter Chiou. Pursuant to the terms of the Agreement, Dr. Chiou would purchase 577,000 shares of the Company’s common stock at \$5.00 per share (the “Shares”). This represents approximately 19.6% of the outstanding shares of the Company. Dr. Chiou would also subscribe to a \$1,615,000 SemiLEDs Corporation’s 0% interest convertible note (the “Note”) with a September 29, 2017 maturity date. Subject to shareholder approval at the Company’s next shareholders meeting, the Note will be convertible, at the Company’s option, into a number of shares of the Company’s common stock equal to the quotient obtained by dividing (x) \$1,615,000 by (y) the conversion price, which is equal to the lesser of \$3.40 or the 5-trading day volume weighted average price of the common stock on the NASDAQ Stock Market ending on the maturity date.

On August 4, 2016, Dr. Chiou and Well Thrive Limited, a Samoa international company (“Well Thrive”) entered into an assignment and assumption of purchase agreement (the “Assignment”) pursuant to which Dr. Chiou assigned his right, title and interest in the Agreement to Well Thrive. In connection with the Assignment, Dr. Chiou agreed to guarantee Well Thrive’s obligations under the Agreement. The Company consented to the Assignment on August 23, 2016.

On August 23, 2016 and in response to comments from The Nasdaq Stock Market, the parties entered into an amendment to the Agreement (the “Amendment”) to confirm that the Shares issued pursuant to the Agreement may not be counted for purposes of determining whether the shareholders approve the conversion feature of the Note.

On August 23, 2016, after receipt of the second installment of \$1,885,000 and approval of the listing of the Shares on the The Nasdaq Stock Market, the Company issued the Shares to Well Thrive.

The foregoing description of the Assignment and Amendment are qualified by reference to the full text of the Assignment, which is filed as Exhibit 10.2 hereto, and the Amendment, which is filed as Exhibit 10.3 hereto, and which are incorporated by reference herein.

Item 3.02. Unregistered Sales of Equity Securities.

As disclosed in Item 1.01 above, on August 23, 2016, the Company issued 577,000 shares pursuant to an exemption from the registration requirements of the Securities Act of 1933.

Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

On August 17, 2016, the Company’s Board of Directors appointed Dr. Chiou as a director of the Company, as the Company has received the second installment of the \$2,885,000 purchase price from Well Thrive. As part of the investment discussed in Item 1.01, the Company’s Board of Directors agreed to appoint a representative of Well Thrive to fill the vacancy on the Company’s Board of Directors. Dr. Chiou has also been named to the Audit Committee. Dr. Chiou has waived any compensation for his service on the Board and Audit Committee.

Dr. Chiou is a technologist who has more than 25 years’ experience in the telecom, datacom and satcom industries. He was the system architect who led the design team that designed the JetBlue in-flight Wi-Fi services through Ka band Satellite. His past experiences include NASA, FAA, SPRINT, AT&T and MOEA of Taiwan. Dr. Chiou received his Ph.D. and M.S., both in Electrical Engineering, from University of Maryland at College Park.

With the appointment of Dr. Chiou to the Audit Committee, the Company’s Audit Committee once again meets the requirements of Nasdaq Listing Rule 5605(c)(2)(A), being comprised of at least three independent members.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

Exhibit No.	Description
10 .1*	Purchase Agreement, effective July 6, 2016, by and between SemiLEDs Corporation, a Delaware corporation, and Peter Chiou, an individual.
10 .2	Assignment and Assumption of Purchase Agreement, effective August 23, 2016, between Peter Chiou and Well Thrive Limited, a Samoa international company.
10.3	Amendment No. 1 to Purchase Agreement, effective August 23, 2016, between SemiLEDs Corporation, Peter Chiou and Well Thrive Limited.

* Previously filed.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

Date: August 23, 2016

SemiLEDs Corporation

By: /s/ Christopher Lee

Name: **Christopher Lee**

Title: **Chief Financial Officer**

ASSIGNMENT AND ASSUMPTION OF PURCHASE AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION OF PURCHASE AGREEMENT (this “**Assignment**”) is made as of August 4, 2016, between PETER CHIOU, an individual (the “**Assignor**”), and WELL THRIVE LIMITED, a Samoa international company (the “**Assignee**”).

RECITALS

A. Assignor is the purchaser under that certain Purchase Agreement dated as of June 28, 2016, between SEMILEDS CORPORATION, a Delaware corporation, (the “**Company**”), and Assignor, as purchaser (the “**Purchase Agreement**”), pursuant to which Assignor agreed to acquire from the Company the Securities (as defined in the Purchase Agreement).

B. Assignor desires to assign to Assignee all of Assignor’s right, title and interest in, to and under the Purchaser Agreement, and Assignee desires to accept such assignment and to assume all obligations of Assignor under the Purchase Agreement, upon and subject to all of the terms and conditions hereinafter set forth.

AGREEMENT

NOW, THEREFORE, in consideration of the premises, One Million Dollars (\$[1,000,000]) paid by Assignee to Assignor, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. Assignment and Assumption. Assignor hereby assigns to Assignee all of Assignor’s right, title and interest in, to and under the Purchase Agreement and all deposits delivered by Assignor thereunder, and Assignee hereby accepts such assignment, assumes all of Assignor’s obligations under the Purchase Agreement, agrees to be bound by all of the provisions thereof and to timely perform all of the obligations of the purchaser thereunder.

2. Authority. Each individual executing this Assignment on behalf of Assignee hereby represents and warrants to Assignor that (i) Assignee is a duly formed and existing entity in the jurisdiction of its formation, (ii) Assignee has full right and authority to execute and deliver this Assignment, and (iii) each person signing on behalf of Assignee is authorized to do so.

3. Representations and Warranties. Assignee hereby confirms that the representations and warranties of Assignor in Section 2 of the Purchase Agreement are true with respect to Assignee.

4. **Guarantee**. Assignor hereby agrees to guarantee the obligations of Assignee under this Assignment in the event of Assignee's non-performance of any of Assignee's obligations hereunder or pursuant to the Purchase Agreement.

5. **Partial Invalidity**. If any term, provision or condition contained in this Assignment shall, to any extent, be invalid or unenforceable, the remainder of this Assignment and the application of such term, provision or condition to persons or circumstances other than those with respect to which it is invalid or unenforceable, shall not be affected thereby and each and every term, provision and condition of this Assignment shall be valid and enforceable to the fullest extent permitted by law.

6. **Further Assurances**. Each of Assignor and Assignee hereby covenants that it will, at any time and from time to time upon request by the other, and without the assumption of any additional liability thereby, execute and deliver such further documents and do such further acts as the other party may reasonably request in order to fully effect the purpose of this Assignment.

7. **Enforcement by the Company**. The provisions of this Assignment shall inure to the benefit of and be enforceable by the Company and its successors and assigns.

8. **Governing Law**. This Assignment shall be governed by and construed in accordance with the laws of the State of Delaware.

9. **Headings**. The headings of the sections of this Assignment are inserted solely for convenience or reference and are not a part of and are not intended to govern, limit or aid in the construction of any terms or provision hereof.

10. **Entire Agreement**. This Assignment is the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements between the parties hereto with respect thereto. This Assignment may not be altered, amended, changed, terminated or modified in any respect, unless the same shall be in writing and signed by the party to be charged and unless such amendment has been approved in writing by Assignor and the Company. All exhibits attached to this Assignment are incorporated herein by this reference. There shall be no presumption that this Assignment be construed more strictly against the party who itself or through its agent prepared it, it being agreed that all parties hereto have participated in the preparation of this Assignment and that each party had the opportunity to consult legal counsel before executing the same.

11. **Successors**. The provisions of this Assignment shall be binding upon, and shall inure to the benefit of, each of the parties hereto and their respective successors, transferees and assigns.

12. **Counterparts**. This Assignment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same agreement. Signatures may be delivered by facsimile transmission or by e-mail in a portable document format (*pdf*). All counterparts shall be deemed an original of this Agreement.

IN WITNESS WHEREOF, Assignor and Assignee have executed and delivered this Assignment under seal as of the date first above written.

ASSIGNOR

PETER CHIOU ,
an individual

By: /s/ PETER CHIOU

Date: August 4, 2016

ASSIGNEE

WELL THRIVE LIMITED ,
a Samoa international company

By: /s/ Sheng-Chun Chang

Name: Sheng-Chun Chang

Its: Director

Date: August 4 ,
2016

AGREED AND ACKNOWLEDGED BY:

SEMILEDS CORPORATION,
a Delaware corporation

By: /s/ Trung Doan

Name: Trung Doan

Its: Chairman and Chief Executive Officer

Date: August 23 ,
2016

SEMILEDS CORPORATION

AMENDMENT NO. 1 TO PURCHASE AGREEMENT

This Amendment No. 1 to Purchase Agreement (this “Amendment”) is hereby entered into, as of August 23, 2016, by and among SemiLEDs Corporation, a Delaware corporation (the “Company”), PETER CHIOU, an individual (the “Assignor”), and WELL THRIVE LIMITED, a Samoa international company (the “Assignee” and together with the Assignor, the “Counterparties”).

WHEREAS:

A. The Company and the Assignor have previously entered into the Purchase Agreement dated as of June 28, 2016 and effective July 6, 2016 (the “Purchase Agreement”). Capitalized terms used but not otherwise defined herein have the meaning ascribed in the Purchase Agreement;

B. The Counterparties entered into an Assignment and Assumption of Purchase Agreement (the “Assignment”) as of August 4, 2016 pursuant to which Assignor assigned to Assignee all of Assignor’s right, title and interest in, to and under the Purchase Agreement and all deposits delivered by Assignor thereunder, and Assignee accepted such assignment, assumed all of Assignor’s obligations under the Purchase Agreement, agreed to be bound by all of the provisions thereof and to timely perform all of the obligations of the purchaser thereunder;

C. The Company and the Counterparties wish to amend the Purchase Agreement as set forth herein; and

D. The undersigned consist of all of the parties necessary to amend the Purchase Agreement, pursuant to Section 6.11 thereof.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, each intending to be legally bound hereby, agree as follows:

1. **Amendment to Purchase Agreement**. Section 4.2 of the Purchase Agreement shall be amended and restated to read in its entirety as follows:

“4.2 Exchange Cap Stockholder Vote. The Company covenants that it will include a proposal in its proxy materials for its annual meeting of stockholders to be held in 2017 recommending that the stockholders vote to approve the issuance of Common Stock in excess of the Exchange Cap to allow for the conversion of the Note into Common Stock (the “Exchange Cap Proposal”). The 577,000 Shares of Common Stock issued pursuant to Section 1.1 of this Purchase Agreement shall not be entitled to vote on the Exchange Cap Proposal.”

2. **Full Force and Effect**. Except as otherwise provided in Section 1 hereof, the terms and conditions of the Purchase Agreement, as modified by the Assignment shall remain in full force and effect.

3. **Counterparts**. This Amendment may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

4. **Governing Law**. This Amendment and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto shall be governed, construed and interpreted in accordance with the laws of the State of Delaware, without giving effect to principles of conflicts of law.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 to Purchase Agreement as of the date first above written.

COMPANY:

SEMILEDS CORPORATION

By: /s/ Trung Doan
Trung Doan, Chairman & CEO

IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 to Purchase Agreement as of the date first above written.

ASSIGNOR

PETER CHIOU,
an individual

By: /s/ PETER CHIOU
Date: August 22 ,
2016

ASSIGNEE

WELL THRIVE LIMITED ,
a Samoa international company

By: /s/ S heng-Chun
Chang
Name: Sheng-Chun Chang
Its: Director
Date: August 22 ,
2016
