

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

Current Report Pursuant to Section 13 or 15(d) of
The Securities Exchange Act of 1934

Date of report (Date of earliest event reported): September 18, 2019

USA TECHNOLOGIES, INC.

(Exact name of registrant as specified in its charter)

Pennsylvania

001-33365

232679963

(State or other jurisdiction of incorporation or
organization)

(Commission File Number)

(I.R.S. Employer Identification No.)

100 Deerfield Lane, Suite 300
Malvern, Pennsylvania 19355
(Address of principal executive offices and zip code)

Registrant's telephone number, including area code: 610-989-0340

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 the registrant under any of the following provisions:

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

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, no par value	USAT	The NASDAQ Stock Market LLC
Series A Convertible Preferred Stock, no par value	USATP	The NASDAQ Stock Market LLC

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Item 1.01 Entry into a Material Definitive Agreement.

On September 18, 2019, USA Technologies, Inc. (the “Company”) entered into an eighth consent letter (the “New Consent Agreement”) relating to the Company’s existing Credit Agreement dated November 9, 2017 (“Credit Agreement”) by and among the Company, as the borrower, its subsidiaries, as guarantors, and JPMorgan Chase Bank, N.A., as the lender and administrative agent for the lender (the “Lender”).

Pursuant to the New Consent Agreement, the Lender has: (i) consented to an extension from September 30, 2019 until March 31, 2020, as the date by which the Company is required to either move to the Lender or close all deposit accounts not maintained with the Lender (other than Excluded Accounts as defined in the Security Agreement dated November 9, 2017 between the Company and the Lender); (ii) waived an event of default under the Credit Agreement due to the failure to limit to \$1,500,000 the amount held in deposit accounts maintained with Silicon Valley Bank; and (iii) amended the foregoing deposit limit with Silicon Valley Bank to require only that the Company transfer any funds in excess of \$2,250,000 on the first business day of each calendar week to a deposit account maintained with the Lender.

The foregoing description of the New Consent Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the New Consent Agreement, a copy of which is filed as Exhibit 10.1 hereto and incorporated herein by reference.

Item 3.01 Notice of Delisting or Failure to Satisfy a Continued Listing Rule or Standard; Transfer of Listing.

On September 24, 2019, the Company received a letter from the Nasdaq Hearings Panel (the "Panel") notifying the Company that as a result of the Company’s failure to regain compliance with its periodic reporting obligations by September 23, 2019, the Panel has determined to delist the Company’s securities from trading on The Nasdaq Stock Market LLC (“Nasdaq”) and will suspend trading in these securities effective at the open of trading on September 26, 2019.

Following a suspension of trading in its securities on Nasdaq, the Company’s securities will be quoted on the OTC Markets. For quotes or additional information on the OTC Markets, you may visit <http://www.otcmarkets.com>.

Pursuant to applicable Nasdaq rules, the Company intends to request that the Nasdaq Listing and Hearing Review Council review the Panel’s decision within 15 days following the date of the Panel’s letter. During the appeal period and the appeals process, trading in the Company’s securities on Nasdaq will remain suspended, and Nasdaq will not take further action to delist the Company’s securities.

As previously reported, on September 20, 2019, the Company notified the Panel that the Company believed that it was unlikely that the Company would meet the Panel’s September 23, 2019 deadline to regain compliance with its periodic reporting obligations. In this regard, the Company is completing its analysis of the leasing/rental contracts of its wholly-owned subsidiary, Cantaloupe Systems, Inc., which it acquired in November 2017, as well as additional adjustments to its previously issued and prior fiscal years’ unissued financial statements, including an accrual for the payment of sales taxes in various jurisdictions and the restoration of the Company’s income tax valuation allowance. These additional adjustments are not related to the Audit Committee’s internal investigation, were discovered during the audit process, and must be resolved by the Company in order for the Company’s independent auditor to complete its audit procedures.

The Company will continue to work diligently towards regaining compliance with its periodic reporting obligations, completion of its Annual Report on Form 10-K for the fiscal year ended June 30, 2019 (the “2019 Form 10-K”), and completion of any required restatements of its previously issued financial statements, as soon as practicable.

Forward-looking Statements:

“Safe Harbor” Statement under the Private Securities Litigation Reform Act of 1995: All statements other than statements of historical fact included in this Current Report on Form 8-K are forward-looking statements. When used in this Current Report on Form 8-K, words such as “anticipate,” “believe,” “estimate,” “expect,” “intend,” and similar ex-pressions, as they relate to the Company or its management, identify forward-looking statements. Such forward-looking statements are based on the beliefs of the Company’s management, as well as assumptions made by and information currently available to the Company’s management. Actual results could differ materially from those contemplated by the forward-looking statements as a result of certain factors, including but not limited to, the ability to complete the financial statements required to be included in its unfiled periodic reports, including the 2019 Form 10-K, or restatement of the affected financial statements; the risk that non-investigatory adjustments which have been identified during the course of the audit and which do not relate to the Cantaloupe financial integration, will result in the restatement of additional previously issued financial statements of the Company or further delay in regaining compliance with its periodic filing obligations; the ability to file the 2019 Form 10-K within the fifteen calendar-day extension period provided by Rule 12b-25(b); the ability of the Company to complete the analysis of the Cantaloupe financial integration issues or the additional adjustments; risks relating to the substantial costs and diversion of personnel’s attention and resources deployed to address the restatement of the affected financial statements, the unfiled periodic reports, and internal control matters; the risk associated with the currently pending litigation or possible regulatory action arising from the internal investigation and its findings, from the failure to file the Company’s periodic reports with the SEC, from the restatement of the affected financial statements, from allegations related to the registration statement for the follow-on public offering, or from potential litigation or other claims arising from the shareholder demands for derivative actions; whether any appeal to the Nasdaq Listing and Hearing Council will be successful or result in the reinstatement of trading of the Company’s securities; the timing of the review by, and the conclusions of, the Company’s independent auditor with respect to the previously issued or prior fiscal years’ financial statements, including the 2019 Form 10-K; the risk that the filing of the unfiled periodic reports, including the 2019 Form 10-K, or the restatement of the affected financial statements will take longer than anticipated; and the possibility that the Company may not appeal the Panel’s decision to the Nasdaq Listing and Hearing Council or may discontinue any such appeal resulting in the delisting of the Company’s securities. Readers are cautioned not to place undue reliance on these forward-looking statements. Any forward-looking statement made by us speaks only as of the date of this Current Report on Form 8-K. Unless required by law, the Company does not undertake to release publicly any revisions to these forward-looking statements to reflect future events or circumstances or to reflect the occurrence of unanticipated events.

Item 9.01. Financial Statements and Exhibits

[Exhibit 10.1](#) Consent Agreement by and among the Company, its subsidiaries, and JPMorgan Chase Bank, N.A., dated September 17, 2019

SIGNATURES

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

USA TECHNOLOGIES, INC.

Dated: September 24, 2019

By: /s/ Stephen P. Herbert
Stephen P. Herbert,
Chief Executive Officer

September 17, 2019

USA Technologies, Inc.
100 Deerfield Lane
Suite 300
Malvern, PA 19355
Attention: Glen Goold

Re: AGREEMENT AND WAIVER

Dear Sir or Madam:

We refer to that certain Credit Agreement, dated as of November 9, 2017 (as amended, restated, supplemented, or otherwise modified from time to time, the "Credit Agreement"), among USA Technologies, Inc., a Pennsylvania corporation (the "Borrower"), the other Loan Parties party thereto (together with the Borrower, the "Loan Parties"), the lenders party thereto from time to time (the "Lenders"), and JPMorgan Chase Bank, N.A., as administrative agent (the "Administrative Agent") for the Lenders. Capitalized terms used herein and not otherwise defined shall have the meanings given to such terms in the Credit Agreement.

Pursuant to that certain letter agreement regarding consent to extension dated as of June 27, 2019, the Loan Parties agreed that (a) by no later than September 30, 2019, the Loan Parties would move all Deposit Accounts (other than Excluded Accounts (as defined in the Security Agreement)) not maintained with the Administrative Agent to the Administrative Agent or close such Deposit Accounts (the "Deposit Account Move Date") and (b) notwithstanding anything in the Security Agreement to the contrary, the Loan Parties would be permitted to maintain up to \$1,500,000 in Deposit Accounts maintained with Silicon Valley Bank (such limit, the "SVB Deposit Limit"; such Deposit accounts, the "SVB Deposit Accounts").

The Loan Parties have informed the Administrative Agent that they have failed to comply with the SVB Deposit Limit (the "Specified Event of Default") and, as result, an Event of Default has occurred and is continuing under the Credit Agreement.

The Loan Parties have requested that the Administrative Agent and the Lenders (a) waive the Specified Event of Default, (b) extend the Deposit Account Move Date to March 31, 2020 (the "Deposit Account Moved Date Extension"), and (c) amend the SVB Deposit Limit to require only that the Loan Parties transfer all funds in the SVB Deposit Accounts in excess of \$2,250,000 on the first Business Day of each calendar week to a Deposit Account maintained with the Administrative Agent.

At your request and subject to the terms and conditions of this letter agreement, the Administrative Agent and the Lenders hereby (a) waive the Specified Event of Default, (b) consent to the Deposit Account Move Date Extension, and (c) agree that the Loan Parties may maintain funds in the SVB Deposit Accounts in excess of \$2,250,000 so long as (i) on the first Business Day of each calendar week all amounts maintained in the SVB Deposit Accounts in excess of \$2,250,000 are transferred to a Deposit Account maintained with the Administrative Agent and (ii) in no event shall the Loan Parties transfer any funds maintained in a Deposit Account with the Administrative Agent to an SVB Deposit Account.

Each of the Loan Parties hereby (a) agrees that, after giving effect to the terms hereof, no Default or Event of Default exists as of the date hereof, (b) reaffirms all of its obligations and covenants under the Credit Agreement and the other Loan Documents to which it is a party, (c) restates and renews each and every representation and warranty heretofore made by it in the Credit Agreement and the other Loan Documents as fully as if made on the date hereof (except with respect to representations and warranties made as of an expressed date, in which case such representations and warranties shall be true and correct as of such date); provided, however, that (i) Section 3.04(a) of the Credit Agreement shall be subject to the restatement of the fiscal year 2017 financial statements of the Company disclosed in the Company's Form 8-K dated February 6, 2019, and (ii) Section 3.06(a)(i) of the Credit Agreement shall be subject to the purported class actions filed against the Company disclosed in the Company's Form 12b-25 dated February 11, 2019, the purported class action filed against the Company in the Chester County, Pennsylvania, Court of Common Pleas (Docket No. 2019-04821-MJ) on May 17, 2019, and the purported class action filed against the Company in the United States District Court of the District of New Jersey (Case 2:19-cv-16597) on August 12, 2019 which has been consolidated with the purported class actions referred to in the Company's Form 12b-25 dated February 11, 2019, and (d) agrees that none of its respective obligations and covenants shall be reduced or limited by the execution and delivery of this letter agreement.

Each Loan Party and their respective Affiliates, successors, assigns, and legal representatives (collectively, the "Releasors"), acknowledge and agree that through the date hereof, each Secured Party has acted in good faith and has conducted itself in a commercially reasonable manner in its relationships with the Releasors in connection with this agreement and in connection with the Secured Obligations, the Credit Agreement, and the other Loan Documents, and the obligations and liabilities of the Releasors existing thereunder or arising in connection therewith, and the Releasors hereby waive and release any claims to the contrary. The Releasors hereby release, acquit, and forever discharge each Secured Party and its Affiliates (including, without limitation, its parent and its subsidiaries) and their respective officers, directors, employees, agents, attorneys, advisors, successors and assigns, both present and former (collectively, the "Secured Party Affiliates") from any and all manner of losses, costs, defenses, damages, liabilities, deficiencies, actions, causes of action, suits, debts, controversies, damages, judgments, executions, claims, demands, and expenses whatsoever, asserted or unasserted, known or unknown, foreseen or unforeseen, in contract, tort, law or equity (generically, "Claims"), that any Releasor has or may have against any Secured Party and/or any Secured Party Affiliate by reason of any action, failure to act, event, statement, accusation, assertion, matter, or thing whatsoever arising from or based on facts occurring prior to the effectiveness of this Agreement that arises out of or is connected to the Loan Documents or the Secured Obligations. Each of the Releasors hereby unconditionally and irrevocably agrees that it will not sue any Secured Party or any Secured Party Affiliate on the basis of any Claim released, remised, and discharged by such Releasor pursuant to this paragraph. If any Releasor or any of their respective successors, assigns, or other legal representatives violates the foregoing covenant, each Releasor, for itself and its successors, assigns, and legal representatives, agrees to pay, in addition to such other damages as any Secured Party or any Secured Party Affiliate may sustain as a result of such violation, all reasonable and documented attorneys' fees and costs incurred by any Secured Party or any Secured Party Affiliate as a result of such violation.

This letter agreement shall not become effective until each of the Loan Parties and the Administrative Agent have executed and delivered this letter agreement to the Administrative Agent. Except for the agreements and waivers set forth above, the text of the Credit Agreement and all other Loan Documents shall remain unchanged and in full force and effect. This letter agreement shall not constitute an amendment to any other provision of the Credit Agreement or any other Loan Document. The agreements and waivers herein are one-time in nature and shall not be construed as an agreement to any future agreement or waiver. No agreement or waiver by the Administrative Agent or the Lenders under the Credit Agreement or any other Loan Document is granted or intended hereby except as expressly set forth herein. Except as set forth herein, the agreements and waivers agreed to herein shall not constitute a modification of the Credit Agreement or any of the other Loan Documents, or a course of dealing with the Administrative Agent and the Lenders at variance with the Credit Agreement or any of the other Loan Documents, such as to require further notice by the Administrative Agent or the Lenders to require strict compliance with the terms of the Credit Agreement and the other Loan Documents in the future. This letter agreement shall be a "Loan Document" for all purposes under the Credit Agreement. This letter agreement shall be governed by, and construed in accordance with, the laws of the State of New York. This letter agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such separate counterparts shall together constitute but one and the same instrument. Delivery by one or more parties hereto of an executed counterpart of this letter agreement via facsimile, telecopy, or other electronic method of transmission pursuant to which the signature of such party can be seen (including, without limitation, Adobe Corporation's Portable Document Format) shall have the same force and effect as the delivery of an original executed counterpart of this letter agreement. Any party delivering an executed counterpart of this letter agreement by facsimile or other electronic method of transmission shall also deliver an original executed counterpart to the Administrative Agent, but the failure to do so shall not affect the validity, enforceability, or binding effect of this letter agreement.

[remainder of page intentionally left blank; signature pages follow]

BORROWER:

USA TECHNOLOGIES, INC.

By: /s/ Stephen P. Herbert

Name: Stephen P. Herbert

Title: Chief Executive Officer

ADMINISTRATIVE AGENT AND SOLE LENDER:

JPMORGAN CHASE BANK, N.A.

By: /s/ Geraldine A. King

Name: Geraldine A. King

Title: Executive Director, Special Credits Risk

CONSENT, REAFFIRMATION, AND AGREEMENT OF GUARANTORS

Each of the undersigned (a) acknowledges receipt of the foregoing agreement and waiver (the “Agreement”); (b) consents to the execution and delivery of the Agreement; and (c) reaffirms all of its obligations and covenants under the Credit Agreement (as defined in the Agreement) and all of its other obligations under the Loan Documents to which it is a party, and, agrees that none of its obligations and covenants shall be reduced or limited by the execution and delivery of the Agreement or any of the other instruments, agreements or other documents executed and delivered pursuant thereto.

This Consent, Reaffirmation, and Agreement of Guarantors (this “Consent”) may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which counterparts, taken together, shall constitute but one and the same instrument. This Consent may be executed by each party on separate copies, which copies, when combined so as to include the signatures of all parties, shall constitute a single counterpart of the Consent.

As of September 17, 2019

STITCH NETWORKS CORPORATION

By: /s/ Stephen P. Herbert

Name: Stephen P. Herbert

Title: Chief Executive Officer

USAT CAPITAL CORP, LLC

By: /s/ Stephen P. Herbert

Name: Stephen P. Herbert

Title: Chief Executive Officer

CANTALOUPE SYSTEMS, INC.

By: /s/ Stephen P. Herbert

Name: Stephen P. Herbert

Title: Chief Executive Officer
