

UNITED STATES
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): February 23, 2024

Presto Automation Inc.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction
of incorporation)

001-39830

(Commission File Number)

84-2968594

(IRS Employer
Identification No.)

**985 Industrial Road
San Carlos, CA 94070**

(Address of principal executive offices, including zip code)

Registrant's telephone number, including area code: **(650) 817-9012**

Not Applicable

(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, par value \$0.0001 per share	PRST	The Nasdaq Stock Market LLC
Warrants, each whole warrant exercisable for one share of common stock	PRSTW	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 3.01. Notice of Delisting or Failure to Satisfy a Continued Listing Rule or Standard; Transfer of Listing.

On February 23, 2024, Presto Automation Inc. (the “Company”) received a notice (the “Notice”) from The Nasdaq Stock Market LLC (“Nasdaq”) stating that the Company is not in compliance with the requirement to maintain a minimum Market Value of Publicly Held Securities (“MVPHS”) of \$15 million, as set forth in Nasdaq Listing Rule 5450(b)(2)(C) (the “MVPHS Requirement”), because the MVPHS of the Company was below \$15 million for the 35 consecutive business days prior to the date of the Notice. The Notice is in addition to the previously disclosed letters received on February 6, 2024, notifying the Company that it was not in compliance with the requirement to maintain a minimum Market Value of Listed Securities of \$50 million, as set forth in Nasdaq Listing Rule 5450(b)(2)(A), and on December 28, 2023, notifying the Company that it was not in compliance with the requirement to maintain a minimum bid price of \$1.00 per share, as set forth in Nasdaq Listing Rule 5450(a)(1).

The Notice does not impact the listing of the Company's common stock, par value \$0.0001 per share (the “Common Stock”), or warrants on The Nasdaq Global Market at this time. The Notice provided that, in accordance with Nasdaq Listing Rule 5810(c)(3)(D), the Company has a period of 180 calendar days from the date of the Notice, or until August 21, 2024, to regain compliance with the MVPHS Requirement. During this period, the Common Stock will continue to trade on The Nasdaq Global Market. If at any time before August 21, 2024 the MVPHS closes at \$15 million or more for a minimum of ten consecutive business days, Nasdaq will provide written notification that the Company has achieved compliance with the MVPHS Requirement and the matter will be closed.

In the event the Company does not regain compliance by August 21, 2024, the Company will receive written notification that its securities are subject to delisting. At that time, the Company may appeal the delisting determination to a Hearings Panel. The Notice provides that the Company may be eligible to transfer the listing of its securities to The Nasdaq Capital Market (provided that it then satisfies the requirements for continued listing on that market).

The Company intends to actively monitor its MVPHS and will evaluate available options to regain compliance with the MVPHS Requirement. However, there can be no assurance that the Company will be able to regain compliance with the MVPHS Requirement or maintain compliance with any of the other Nasdaq continued listing requirements.

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

As indicated below, on February 26, 2024, the stockholders of the Company approved an amendment (the “Amendment”) to the Second Amended and Restated Certificate of Incorporation of the Company (the “Certificate of Incorporation”). The Company's board of directors previously approved the Amendment on February 12, 2024, subject to stockholder approval. The Amendment increased the number of authorized shares of Common Stock, of the Company from 180,000,000 shares to 100,000,000,000 shares.

The foregoing summary is qualified in its entirety by reference to the Amendment, a copy of which is filed as Exhibit 3.1 to this current report on Form 8-K and is incorporated herein by reference. A more complete description of the terms of the Amendment can be found in “Proposal 1 – Approval of the Amendment to the Second Amended and Restated Certificate of Incorporation of the Company to Increase the Total Number of Authorized Shares of Common Stock” on pages 7 to 8 of the Company's definitive proxy statement filed with the U.S. Securities and Exchange Commission on February 12, 2024 (the “Proxy Statement”), which description is incorporated by reference herein.

Item 5.07 Submission of Matters to a Vote of Security Holders.

On February 26, 2024, the Company held its Special Meeting of Stockholders (the “Special Meeting”). Set forth below are the voting results of the four proposals considered and voted upon at the Special Meeting, all of which were described in the Proxy Statement.

Proposal 1 – To approve the Amendment to increase the total number of authorized shares of Common Stock of the Company from 180,000,000 to 100,000,000,000 shares.

For	Against	Abstain	Broker Non-Votes
38,392,937	387,273	10,768	-

Proposal 2 – To approve the issuance of shares of Common Stock in an amount in excess of 19.99% of the Company’s outstanding Common Stock, pursuant to the terms of certain Securities Purchase Agreement, dated October 10, 2023, and warrants to purchase Common Stock, dated October 16, 2023, issued to certain Metropolitan funds.

For	Against	Abstain	Broker Non-Votes
20,932,519	17,845,536	12,923	-

Proposal 3 – To approve the issuance of shares of Common Stock in an amount in excess of 19.99% of the Company’s outstanding Common Stock, pursuant to the terms of certain Common Stock Purchase Agreements, dated November 17, 2023.

For	Against	Abstain	Broker Non-Votes
38,435,745	345,612	9,621	-

Proposal 4 – To approve the proposed issuance of shares of Common Stock underlying subordinated convertible notes and warrants in an amount in excess of 19.99% of the Company’s outstanding Common Stock, pursuant to the terms of certain Securities Purchase Agreements, dated January 29, 2024, and warrants to purchase Common Stock.

For	Against	Abstain	Broker Non-Votes
38,426,181	355,123	9,674	-

Item 8.01. Other Events.

On February 29, 2024, the Company issued a press release announcing that it has entered into a securities purchase agreement with certain institutional investors, providing for the purchase and sale of 8,533,000 shares of Common Stock in a registered direct offering at a price per share of \$0.25 (the “Offering”). The Offering is expected to close on or about March 4, 2024, subject to the satisfaction of customary closing conditions.

A copy of the press release is filed herewith as Exhibit 99.1 to this Current Report.

Item 9.01 Financial Statements and Exhibits.**(d) Exhibits**

Exhibit No.	Description
3.1	Amendment to Second Amended and Restated Certificate of Incorporation.
99.1	Press Release, dated February 29, 2024.
104	Cover Page Interactive Data File (embedded within Inline XBRL document).

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 hereunto duly authorized.

PRESTO AUTOMATION INC.

By: /s/ Guillaume Lefevre

Name: Guillaume Lefevre

Title: Interim Chief Executive Officer

Dated: February 29, 2024

PRESTO AUTOMATION INC.**Amendment to the Second Amended and Restated Certificate of Incorporation**

Presto Automation Inc. (the "Corporation"), a corporation organized and existing under the General Corporation Law of the State of Delaware, hereby certifies as follows:

1. This Certificate of Amendment (the "Certificate of Amendment") amends the provisions of the Corporation's Second Amended and Restated Certificate of Incorporation filed with the Secretary of State on September 21, 2022 (the "Certificate of Incorporation").
2. Section 4.1.1 of the Certificate of Incorporation is hereby amended and restated in its entirety as follows:

"4.1.1 The total number of shares of all classes of stock that the Corporation has authority to issue is 100,001,500,000 shares, consisting of two classes: 100,000,000,000 shares of Common Stock, \$0.0001 par value per share ("Common Stock"), and 1,500,000 shares of Preferred Stock, \$0.0001 par value per share ("Preferred Stock")."
3. This amendment was duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.
4. All other provisions of the Certificate of Incorporation shall remain in full force and effect.

IN WITNESS WHEREOF, the Corporation has caused this Certificate of Amendment to be signed by Susan Shinoff, its General Counsel, this 27th day of February, 2024.

PRESTO AUTOMATION INC.

By: /s/ Susan Shinoff

Susan Shinoff

General Counsel & Corporate Secretary

Presto Automation Announces Pricing of \$2.1M Registered Direct Offering

Feb 29, 2024

San Carlos, California, Feb. 29, 2024 (GLOBE NEWSWIRE) – Presto Automation Inc. (“Presto” or the “Company”) (NASDAQ: PRST), one of the largest AI and automation technology providers to the restaurant industry, announced today that it has entered into a securities purchase agreement with institutional investors, providing for the purchase and sale of 8,533,000 shares of common stock in a registered direct offering, at a price per share of \$0.25. The offering is expected to close on or about March 4, 2024, subject to the satisfaction of customary closing conditions.

Chardan Capital Markets LLC and Spartan Capital Securities, LLC are acting as the placement agents (the “Placement Agents”) for the offering.

The gross proceeds to Presto from this offering are expected to be approximately \$2.1 million, before deducting the Placement Agents’ fees and other offering expenses payable by Presto. Presto intends to use the net proceeds from this offering for working capital and general corporate purposes.

The offering is being made pursuant to a shelf registration statement on Form S-3 (File No. 333-275112) (including a base prospectus) previously filed with the Securities and Exchange Commission (the “SEC”) on October 20, 2023 and declared effective by the SEC on October 30, 2023. A prospectus supplement and the accompanying base prospectus relating to and describing the terms of the offering will be filed with the SEC and will be available on the SEC’s website at www.sec.gov. When available, copies of the prospectus supplement and the accompanying base prospectus relating to the offering may also be obtained by contacting Chardan Capital Markets, LLC, Attn: Capital Markets, 17 State Street, Suite 2100, New York, New York 10004, by email at prospectus@chardan.com and Spartan Capital Securities, LLC, 45 Broadway, New York, NY 10006, at (212) 293-0123.

This press release does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of these securities in any state or jurisdiction in which such offer, solicitation or sale would be unlawful prior to the registration or qualification under the securities laws of any such state or jurisdiction.

About Presto Automation

Presto (Nasdaq: PRST) provides enterprise-grade AI and automation solutions to the restaurant industry. Presto’s solutions are designed to decrease labor costs, improve staff productivity, increase revenue, and enhance the guest experience. Presto offers its AI solution, Presto Voice™, to quick service restaurants (QSR) and its pay-at-table tablet solution, Presto Touch, to casual dining chains. Some of the most recognized restaurant names in the United States are among Presto’s customers, including Carl’s Jr., Hardee’s, and Checkers for Presto Voice™.

Cautionary Note Regarding Forward-Looking Statements

This press release contains statements that constitute “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. All statements, other than statements of present or historical fact included in this press release, regarding including statements about the closing of the offering, are forward-looking statements. When used in this press release, the words “could,” “should,” “will,” “may,” “believe,” “anticipate,” “intend,” “estimate,” “expect,” “project,” “initiatives,” “continue,” the negative of such terms and other similar expressions are intended to identify forward-looking statements, although not all forward-looking statements contain such identifying words. These forward-looking statements are based on management’s current expectations and assumptions about future events and are based on currently available information as to the outcome and timing of future events. The forward-looking statements speak only as of the date of this press release or as of the date they are made. The Company cautions you that these forward-looking statements are subject to numerous risks and uncertainties, most of which are difficult to predict and many of which are beyond the control of the Company. In addition, the Company cautions you that the forward-looking statements contained in this press release are subject to risks and uncertainties, including but not limited to, the Company’s ability to secure additional capital resources, the Company’s ability to compete successfully to maintain the relationship with Checkers, the Company’s ability to continue to roll out its AI technology with current franchisees, the Company’s ability to engage with new customers for its AI technology, including: the uncertainties related to market conditions and the completion of the offering on the anticipated terms or at all and such other factors and those additional risks and uncertainties discussed under the heading “Risk Factors” in the Form 10-K filed by the Company with the Securities and Exchange Commission (the “SEC”) on October 11, 2023 and the other documents filed, or to be filed, by the Company with the SEC. Additional information concerning these and other factors that may impact the operations and projections discussed herein can be found in the reports that the Company has filed and will file from time to time with the SEC. These SEC filings are available publicly on the SEC’s website at www.sec.gov. Should one or more of the risks or uncertainties described in this press release materialize or should underlying assumptions prove incorrect, actual results and plans could differ materially from those expressed in any forward-looking statements. Except as otherwise required by applicable law, the Company disclaims any duty to update any forward-looking statements, all of which are expressly qualified by the statements in this section, to reflect events or circumstances after the date of this press release.

Source: Presto Automation Inc.

Investor and Media Contacts: investors@presto.com
