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

FORM 10-K

☒ **Annual Report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

For the fiscal year ended December 31, 2022

OR

☐ **Transition report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

Commission File Number: 001-35838

Marin Software Incorporated

(Exact name of registrant as specified in its charter)

Delaware	**20-4647180**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**

845 Market Street, Suite 450
San Francisco, CA 94103

(Address of principal executive offices)

(415) 399-2580

(Registrant's telephone number, including area code)

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 $0.001 per share	**MRIN**	**The Nasdaq Stock Market LLC**

Securities registered pursuant to section 12(g) of the Act:
Not applicable

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☐ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of Act. Yes ☐ No ☒

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the Registrant was required to submit such files). Yes ☒ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	☐	Accelerated filer	☐
Non-accelerated filer	☒	Smaller reporting company	☒
		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. ☐

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report. ☐

If securities are registered pursuant to Section 12(b) of the Act, indicate by check mark whether the financial statements of the registrant included in the filing reflect the correction of an error to previously issued financial statements. ☐

Indicate by check mark whether any of those error corrections are restatements that required a recovery analysis of incentive-based compensation received by any of the registrant's executive officers during the relevant recovery period pursuant to §240.10D-1(b). ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). Yes ☐ No ☒

Based on the closing price of the registrant's Common Stock on The Nasdaq Global Market of $1.65 on the last business day of the registrant's most recently completed second fiscal quarter, which was June 30, 2022, the aggregate market value of its shares held by non-affiliates was approximately $25.1 million. Shares of the registrant's Common Stock held by each executive officer and director were excluded in that such persons may be deemed to be affiliates. This determination of affiliate status is not necessarily a conclusive determination for other purposes.

As of February 17, 2023, there were approximately 17,235,010 shares of the registrant's Common Stock outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the Registrant's definitive proxy statement for its 2023 Annual Meeting of Stockholders ("Proxy Statement"), to be filed within 120 days of the Registrant's fiscal year ended December 31, 2022, are incorporated by reference in Part III of this Annual Report on Form 10-K. Except with respect to information specifically incorporated by reference in this Form 10-K, the Proxy Statement is not deemed to be filed as part of this Annual Report on Form 10-K.

MARIN SOFTWARE INCORPORATED
FORM 10-K
For the Fiscal Year Ended December 31, 2022
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SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This Annual Report on Form 10-K, including the "Management's Discussion and Analysis of Financial Condition and Results of Operations," contains forward-looking statements regarding future events and our future results, including, among other things, statements regarding our business, the capabilities of our technology platform and upgrades to the platform, product capabilities and their benefits for our customers, and expectations as to our future financial operating results and financial condition, that are subject to the safe harbors created under the Securities Act of 1933, as amended, and the Securities Exchange Act of 1934, as amended. All statements contained in this Annual Report on Form 10-K other than statements of historical fact, including statements regarding our future results of operations and financial position, our business strategy and plans, and our objectives for future operations, are forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. The words "believe," "may," "potentially," "will," "estimate," "continue," "anticipate," "intend," "could," "should," "would," "project," "plan," "predict," "expect," "seek," "likely," and similar expressions are intended to identify forward-looking statements. We have based these forward-looking statements largely on our current expectations, estimates and projections about future events and trends that we believe may affect our financial condition, results of operations, business strategy, short-term and long-term business operations and objectives, and financial needs. These statements reflect our beliefs and certain assumptions based upon information available to us at the time we file this Annual Report on Form 10-K or the time of the documents incorporated by reference. Such forward-looking statements are only predictions, which may differ materially from actual results or future events. Although we believe that our expectations, estimates and projections reflected in the forward-looking statements are reasonable, we cannot be sure that they will be achieved. These forward-looking statements are subject to a number of risks, uncertainties and assumptions, including those described in the "Risk Factors" section. Moreover, we operate in a very competitive and rapidly changing environment. New risks emerge from time to time, including the economic risk of continuing inflation or the extent and duration of any recession. It is not possible for our management to predict all risks, nor can we assess the impact of all factors on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements we may make. In light of these risks, uncertainties and assumptions, the future events and trends discussed in this report may not occur and actual results could differ materially and adversely from those anticipated or implied in the forward-looking statements. We undertake no obligation to revise or publicly release the results of any revision to these forward-looking statements, except as required by law. Given these risks and uncertainties, readers are cautioned not to place undue reliance on such forward-looking statements.

As used in this report, the terms "Marin," "Registrant," "we," "us," "our," and the "Company" mean Marin Software Incorporated and its subsidiaries unless the context indicates otherwise. References to "fiscal 2022" and "fiscal 2021" and "2022" and "2021" refer to the year ended December 31, 2022 and the year ended December 31, 2021, respectively.

PART I

ITEM 1. BUSINESS

We are a leading provider of digital marketing software for search, social and eCommerce advertising channels, offered as a unified software-as-a-service, or SaaS, advertising management platform for performance-driven advertisers and agencies. Our platform is an analytics, workflow and optimization solution for marketing professionals, allowing them to effectively manage their digital advertising spend. We market and sell our solutions to advertisers directly and through leading advertising agencies, and our customers collectively manage billions of dollars in advertising spend on our platform globally across a wide range of industries. We believe this makes us one of the largest providers of independent advertising cloud solutions. Our software solution is designed to help our customers:

- measure the effectiveness of their advertising campaigns through our proprietary reporting and analytics capabilities;
- manage and execute campaigns through our intuitive user interface and underlying technology that streamlines and automates key functions, such as advertisement creation and bidding, across multiple publishers and channels; and
- optimize campaigns across multiple publishers and channels based on market and business data to achieve desired revenue outcomes using our predictive bid management technology.

Advertisers use our platform to create, target and convert precise audiences based on recent buying signals from users' search, social and eCommerce interactions. Our platform is integrated with leading publishers such as Amazon, Apple, Baidu, Bing, Criteo, Facebook ("Meta Platforms, Inc." or "Meta"), Google, Instacart, Instagram, LinkedIn, Pinterest, TikTok, Twitter, Walmart, Yahoo!, Yahoo! Japan and Yandex. Additionally, we have integrations with dozens of leading web analytics and advertisement-serving solutions and key enterprise applications, enabling our customers to more accurately measure the return on investment of their marketing programs.

Our software platform serves as an integration point for advertising performance, sales and revenue data, allowing advertisers to connect the dots between advertising spend and revenue outcomes. Through an intuitive interface, we enable our customers to simultaneously run large-scale digital advertising campaigns across multiple publishers and channels, making it easy for marketers to create, publish, modify and optimize campaigns.

Our predictive bid management and optimization technology also allows advertisers to forecast outcomes and optimize campaigns across multiple publishers and channels to achieve their business goals. Our optimization technology can help advertisers increase advertisement spend on those campaigns, publishers and channels that are performing well while reducing investment in those that are not. This category of solutions, which we refer to as cross-channel bid and campaign optimization, helps businesses intelligently and efficiently measure, manage, and optimize their digital advertising spend to achieve desired business results.

Headquartered in San Francisco, we were incorporated in the State of Delaware in 2006. The mailing address of our headquarters is 845 Market Street, Suite 450, San Francisco, California 94103 and our telephone number at that location is (415) 399-2580.

Offered Solutions

Our cloud-based platform helps our customers to measure, manage and optimize their digital marketing campaigns to improve performance of their online advertising campaigns, realize efficiencies and time savings, and make better business decisions. We offer solutions for direct advertisers and the agencies that represent them, including enterprise and mid-market businesses. We offer SaaS solutions and managed services for search, social and eCommerce.

Our platform offers the following capabilities:

- *Optimization*. Our *Optimization* tools help advertisers manage budgets and bids across publishers to meet revenue goals and identify opportunities for campaign improvements, which we believe can improve financial performance and efficiencies. Forecasting capabilities help predict campaign performance, which simplifies the budgeting process for marketing departments.
- *Reporting and Analytics*. Our *Reporting and Analytics* tools enable advertisers to report results at a business level and analyze cross-channel performance trends, which we believe can lead to improved visibility and generate significant time savings.

- *Campaign Management*. Our *Campaign Management* tools provide the digital advertiser with a unified interface to create, manage and optimize campaigns across a broad range of publishers, creating greater efficiencies and increasing flexibility. Our goal is to complement and enhance the tools offered by these publishers to provide digital advertisers the ability to easily manage their campaigns on a global scale.

- *Connect*. Our *Connect* tools enable advertisers to automate and streamline the capture of revenue, cost and audience data from a range of sources such as advertisement servers, analytics systems, Customer Relationship Management (CRM) platforms, publishers and third-party databases. Through integrations across multiple data sources, our *Connect* module can help advertisers have a holistic picture of their digital advertising campaigns.

Technology and Supporting Platform

We designed our cloud-based platform to support large global advertisers. The majority of our software is written in Java. Our hardware consists of industry-standard servers and network infrastructure. Our standard operating system is Linux. Our software platform is character-set, language, currency, and time-zone independent. Our technology platform has the following key benefits:

- *Scalability*. Our platform is designed to handle billions of advertising units across thousands of advertisers, while delivering a responsive browsing and editing experience. If the number of advertisers and resulting computing and storage requirements changes, we can add or remove hardware to our platform to accommodate the demand.

- *Availability*. Our customers are highly dependent on the availability of our platform, which is designed to be available 24x7, 365 days a year. We operate our own hardware and use a third-party data center that offers server redundancy, back-up communications and power and physical security.

- *Security*. Our platform manages a large quantity of customer data. We employ technologies, policies and procedures to protect customer data. The primary third-party data center that we use to host our platform has SSAE No. 18, Type 2 SOC 1, SOC 2 and SOC 3 attestations and is ISO 27001 certified.

We are continuously upgrading our software platform in a manner that we believe will cost-effectively extend the scalability, speed, resiliency and availability of our services and facilitate our ability to add new features to our products.

Strategic Agreements

We have entered into long-term strategic agreements with certain leading search publishers. Under these strategic agreements, we receive consideration based on a percentage of the search advertising spend that our customers manage on our platform.

In September 2021, we entered into a new revenue share agreement with Google, with an effective date of October 1, 2021 for a three-year term continuing until September 30, 2024. Under this new Google Revenue Share Agreement, we are eligible to receive fixed and variable revenue share payments based on a percentage of certain search advertising spend that is managed through our platform. Google has the right to terminate this new Google Revenue Share Agreement in certain circumstances, and any termination or amendment of this agreement would have a material adverse effect on our results of operations.

Customers

We market and sell our technology solutions to advertisers directly and through advertising agencies that use our platform on behalf of their customers. Advertisers that we serve through our relationships with agencies generally represented approximately one-third to one-quarter of our overall revenues. We also generate revenues from leading publishers through our long-term strategic agreements.

Competition

The digital advertising cloud market is highly competitive, fragmented, and subject to changes in both technology and customer behavior. We face significant competition today and expect competition to intensify in the future. To maintain and improve our competitive position, we must keep pace with the evolving needs of our customers and continue to develop and introduce new modules, features and services in a timely and efficient manner. We currently compete with large, well-established companies, such as Adobe Systems Incorporated, Meta Platforms, Inc., Google Inc. and Skai.io. We also compete with smaller pay-per-click platforms such as AdZooma and Optmyzr and with in-house proprietary tools, tools from publishers and custom solutions, including spreadsheets. We believe that our most significant competition comes from the SA360 product that is offered by Google and other digital ad management tools offered by Google and other publishers. We believe the principal competitive factors in our market include the following:

- solution quality, breadth, stability, flexibility and functionality;
- tangible platform benefits;
- level of customer satisfaction and our ability to respond to customer needs rapidly;
- breadth and quality of advertiser and agency relationships;
- ability to innovate and develop new or improved products and features while maintaining platform speed and stability;
- ability to respond to changes in publishers' application programming interfaces;
- brand awareness and reputation; and
- size of customer base.

Apart from cross-channel platform competitors, we also compete with channel solutions in the social advertising market. Competitors in the social advertising market include companies such as Salesforce.com and Smartly.io Inc. Competitors also include companies in the marketing data pipeline market such as Funnel.io, NinjaCat and Supermetrics.

Our ability to remain competitive will largely depend on our ongoing performance in the areas of the quality, functionality and breadth of our solution and the availability and knowledgeability of our customer support.

Sales and Marketing

We sell our solutions directly to advertisers and agencies in a wide range of industries through our global sales team. Our sales cycle can vary substantially by advertiser and agency, but can take as long as three to nine months. The sales team is responsible for long-term customer satisfaction and retention, renewal, support and driving an increase in the volume of media managed by customers on our platform.

Our marketing team is focused on driving awareness and demand generation across major markets. This team provides thought leadership in the form of white papers, benchmarking reports, bylines, presenting at industry conferences and speaking to the press. In addition, they are responsible for the creation of field enablement assets such as case studies, blog posts and corporate and product collateral.

Research and Development

Our research and development team is responsible for the design, development, and maintenance of our platform. Our research and development process emphasizes frequent, iterative and incremental development cycles. Within our research and development organizations, we have several project teams that focus on platform and feature development for our advertising cloud solutions. Each of these project teams includes engineers, quality engineers and product managers, as needed, responsible for the initial and ongoing development for their projects.

Government Regulation

We are subject to a number of laws and regulations that affect companies conducting business in the advertising and SaaS industries and on the Internet, many of which are still evolving and could be interpreted in ways that could harm our business. The manner in which existing laws and regulations will be applied to the SaaS and advertising industries and the Internet in general and how they will relate to our business in particular, are often unclear. For example, we often cannot be certain how existing laws will apply in the eCommerce and online context, including with respect to such topics as privacy, advertising, pricing, taxation, content regulation, quality of products and services and intellectual property ownership and infringement. In addition, in 2020 U.S. federal and state and foreign governments and regulatory agencies initiated lawsuits or investigations against Google and Meta related to certain of their anticompetitive business practices and conduct in the digital advertising and social media industries and we cannot be certain as to how such lawsuits and investigations might affect Google or Meta or otherwise affect the digital advertising industry.

Numerous laws and regulatory schemes have been adopted at the national and state level in the United States, and in some cases internationally, that have a direct impact on our business and operations. For example, the California Consumer Privacy Act, or CCPA, which went into effect on January 1, 2020, provides consumers the right to know what personal data companies collect, how it is used, and the right to access, delete, and opt out of the sale of their personal information to third parties. It also expands the definition of personal information and gives consumers increased privacy rights and protections for that information. The CCPA also includes special requirements for California consumers under the age of 16. The Nevada Online Privacy Law, which went into effect October 1, 2021 provides Nevada residents with the right to know our data practices and the right to opt-out of the sale of certain “covered information.” Additional laws, including the California Privacy Rights Act, or CPRA, Virginia Consumer Data Protection Act, and Colorado Privacy Act went into effect on January 1, 2023. The Connecticut Consumer Privacy Act will become effective on July 1, 2023, and the Utah Consumer Privacy Act will become effective on December 31, 2023. These laws provide consumers with the right to know what personal data companies collect, how it is used, and the right to access, delete, and opt out of the sale of their personal information to third parties. The CPRA also includes special requirements for California consumers under the age of 16.

The General Data Protection Regulation, or GPDR, which went into effect in May 2018 gives EU residents, among other things, rights to right to know what personal data we collect from them, how it is used, and the right to access, correct, delete, and opt out of the sale of their personal information to third parties. We may also be required to obtain consent from any consumers in certain circumstances and adhere to certain data transfer mechanisms to transfer EU personal data to certain other jurisdictions. The Safe Harbor framework that many companies relied on to transfer data was recently found to be invalid. We rely on standard contracts for data transfers from the EU. The standard contractual clauses were recently revised substantially and we are in the process of implementing new standard contractual clauses. As regulatory authorities continue to issue further guidance on personal data, we could suffer additional costs, complaints or regulatory investigations or fines. The GDPR sets a maximum fine of €20 million (about £18 million) or 4% of annual global turnover for infringements – whichever is greater. If we are unable to transfer data between and among countries in which we operate, it could affect the manner in which we provide our services, the geographical location or segregation of our systems and operations, and could adversely affect our financial results.

The United Kingdom’s Data Protection Act 2018, or Data Protection Act, and UK General Data Protection Regulation, or UK GDPR, apply to our activities in the United Kingdom. They have similar requirements to those noted above relating to GDPR. The Data Protection Act and UK GDPR set a maximum fine for infringements as the greater of £17.5 million or 4% of annual global turnover.

Human Capital Resources

Our employees are our greatest asset. Our performance depends upon identifying, attracting, developing, motivating and retaining a highly skilled workforce in multiple areas, including engineering, sales and marketing, and customer service. Collectively, our employees have extensive experience and knowledge in digital marketing, and we believe that we employ some of the top talent in our industry.

Workforce Demographics

As of December 31, 2022, we had a total of 177 employees, which was up from a total of 156 employees at December 31, 2021 and a total of 162 employees at December 31, 2020. As of December 31, 2022, approximately 54% of our employees were located in the United States, with approximately 28% of our employees located in Europe and approximately 18% of our employees located in Asia. As of December 31, 2022, approximately 39% of our employees were on our engineering and research and development teams, with the remainder of our employees comprising our sales and marketing, customer service, and general and administrative teams.

We are focused on retaining and motivating our employees at all levels and in all parts of the organization, and we are committed to maintaining a workplace environment that promotes employee productivity and satisfaction.

Compensation, Benefits and Well-being

We believe that we offer fair compensation and benefits that support our employees’ overall well-being and are competitive in our industry and in the communities in which we operate. To promote alignment with our short- and long-term objectives, our compensation practices for employees include base pay, annual bonuses and other short-term incentives, and equity grants and other opportunities for long-term incentives. We offer an array of benefits, including comprehensive health and wealth insurance. We provide emotional well-being services through an Employee Assistance Program.

Since the start of the COVID-19 pandemic in March 2020, most of our employees have been working remotely rather than from our offices, and we expect that most of our employees will continue to work remotely most of the time for the foreseeable future.

Communication and Engagement

We believe that our success depends upon on our employees understanding how their work contributes to our overall strategy and plans. To this end, we try to communicate with our workforce through a variety of channels and encourage open and direct communication, including quarterly company-wide CEO update meetings, regular company-wide call on a variety of topics of interest and frequent email corporate communications.

Diversity and Inclusion

We strive to promote and advance diversity and inclusion across the country and we value diverse perspectives and life experiences. We believe that everyone deserves respect and equal treatment, regardless of gender, race, ethnicity, age, disability, sexual orientation, gender identity, cultural background, or religious belief.

Intellectual Property

Our intellectual property rights are a key component of our success. We rely on a combination of patent, trademark, copyright, unfair competition and trade secret laws, as well as confidentiality procedures and contractual restrictions, to establish, maintain and protect our proprietary rights.

As of December 31, 2022, we had five issued patents and two patent applications pending in the United States. We own and use trademarks on or in connection with our products and services, including two registered trademarks in the United States, Canada, the European Union, Australia, China, Japan and Russia; one registered mark in South Korea and Singapore; and unregistered common law marks and pending trademark applications in the United States, Canada and the European Union. We have also registered numerous Internet domain names.

Available Information

The mailing address of our headquarters is 845 Market Street, Suite 450, San Francisco, California 94103 and our telephone number at that location is (415) 399-2580. Our website is www.marinsoftware.com. Through a link on the Investor Center section of our website, we make available the following filings as soon as reasonably practicable after they are electronically filed with or furnished to the Securities and Exchange Commission, or the SEC: our Annual Report on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K, and any amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended. All such filings are free of charge. The information posted to our website is not incorporated into this Annual Report on Form 10-K. The public may read and copy any materials that we file with the SEC at its website at www.sec.gov.

We use our Investor Relations website (http://investor.marinsoftware.com/investor-home/default.aspx) as a means of disclosing material non-public information and for complying with our disclosure obligations under Regulation FD promulgated by the SEC. These disclosures are included in the “Investor News” and “Events & Presentations” sections of our website. Accordingly, investors should monitor these portions of our website, in addition to following our press releases, SEC filings and public conference calls and webcasts.

The contents of the websites referred to above are not incorporated into this filing. Further, our references to the URLs for these websites are intended to be inactive textual references only.

ITEM 1A. RISK FACTORS

Investing in our common stock involves a high degree of risk. You should carefully consider the risks and uncertainties described below, together with all of the other information contained in this Annual Report on Form 10-K, including our consolidated financial statements and the related notes thereto, before making a decision to invest in our common stock. The risks and uncertainties summarized and described below are not the only ones we face. Additional risks and uncertainties that we are unaware of, or that we currently believe are not material, may also become important factors that affect us. If any of the following risks occur, our business, financial condition, operating results and prospects could be materially and adversely affected. In that event, the price of our common stock could decline, and you could lose part or all of your investment.

SUMMARY OF RISK FACTORS

Risks Related to our Financial Condition and Future Operating Results

- We have a history of losses and declining revenues and we may not achieve or sustain profitability in the future.
- We expect to continue to incur losses and experience negative cash flows, and we may need to reduce operating expenses, sell additional securities, sell assets or borrow additional funds to fund our business plans.
- We may require additional capital to support business growth, and this capital might not be available on acceptable terms, if at all.
- We may experience quarterly fluctuations in our operating results due to a number of factors, including general macroeconomic conditions such as inflation or any recession, which make our future results difficult to predict.

Risks Related to our Business and Market

- If the market for digital advertising slows or declines, our business, growth prospects, and financial condition would be adversely affected.
- We must develop and introduce enhancements and new features that achieve market acceptance or that keep pace with technological developments to remain competitive in our evolving industry.
- If we are unable to maintain our relationships with, and access to, publishers, advertising exchange platforms and other platforms that aggregate the supply of advertising inventory, our business will suffer.
- Our growth depends in part on the success of our relationships with advertising agencies and our strategic relationships with third parties. We have recognized a significant percentage of our revenues during recent periods from our strategic relationship with Google, and any adverse change in such relationship could have a material adverse effect on our results of operations and business.
- Our market is highly competitive and complex. We may not be able to compete successfully against current and future competitors.
- Our business depends on our customers' continued willingness to manage advertising spend on our platform.

Risks Related to the COVID-19 Pandemic

- The COVID-19 global pandemic has adversely affected, and any lingering effects of the pandemic may continue to adversely affect, our business and operating results. Among other things, the COVID-19 global pandemic has caused, and any lingering effects of the pandemic could continue to cause, some of our customers to reduce their purchases of our products or to reduce the amount of digital advertising spend that they manage using our products, which could have a material adverse effect on our business.

Operational Risks

- Our business depends on retaining and attracting qualified personnel, and turnover may result in operational inefficiencies that could negatively affect our business.
- We incur upfront costs associated with onboarding advertisers to our platform and may not recoup our investment if we do not maintain the advertiser relationship over time.

- Because we generally bill our customers over the term of the contract, near term decline in new or renewed subscriptions may not be reflected immediately in our operating results.
- Any decrease in our customers' use of search advertising or our inability to further penetrate social and eCommerce advertising channels would harm our business.
- Our sales cycle can be long and unpredictable and require considerable time and expense, which may cause our operating results to fluctuate.
- Our ability to generate revenue depends on our collection of significant amounts of data from various sources.
- Material defects, errors or disruptions in our software platform could harm our reputation, result in significant costs to us and impair our ability to sell our subscription services.
- If mobile connected devices, their operating systems or content distribution channels, including those controlled by our competitors, develop in ways that prevent our advertising campaigns from being delivered to their users, our ability to grow our business will be impaired.
- If our security measures are breached or unauthorized access to customer data or our data is otherwise obtained, our solutions may be perceived as not being secure, customers may reduce the use of or stop using our solutions and we may incur significant liabilities.
- We primarily use third-party data centers to deliver our services. Any disruption of service at these facilities could harm our business.
- We may need to continually improve our hosting infrastructure to avoid service interruptions or slower system performance.
- Our solutions must integrate with our customers' enterprise applications and infrastructures. If we cannot efficiently implement our solutions for our customers, we may lose customers.
- If we are unable to maintain or expand our sales and marketing capabilities, we may not be able to generate anticipated revenues.
- Any failure to offer high-quality technical support services may adversely affect our relationships with our customers and harm our financial results.
- Any failure to protect our intellectual property rights could impair our ability to protect our proprietary technology and adversely affect our business, reputation or brand.

Regulatory and Compliance Risks

- Domestic and foreign government regulation and enforcement of data practices and data tracking technologies is expansive, not clearly defined and rapidly evolving. Such regulation could directly restrict portions of our business or indirectly affect our business by constraining our customers' use of our platform or limiting the growth of our markets.
- If our customers fail to abide by applicable privacy laws or to provide adequate notice and/or obtain consent from end users, we could be subject to litigation or enforcement action or reduced demand for our services. Industry self-regulatory standards may be implemented in the future that could affect demand for our platform and our ability to access data we use to provide our platform.
- If we experience material weaknesses or deficiencies in the future or otherwise fail to maintain an effective system of internal controls, we may not be able to accurately or timely report our financial condition or results of operations, which may adversely affect investor confidence in us and, as a result, the value of our common stock.

Risks Related to the Ownership of Our Common Stock

- The market price of our common stock has been volatile and may continue to be subject to wide fluctuations due to circumstances beyond our control, which could subject us to litigation.
- If we cannot meet the continued listing requirements of The Nasdaq Global Market, The Nasdaq Global Market may de-list our common stock, which would have an adverse effect on the trading volume, liquidity and market price of our common stock.
- If we sell additional shares of our common stock, the percentage ownership of our stockholders will be diluted.

RISK FACTORS

Risks related to our Financial Condition and Future Operating Results

We have a history of losses and declining revenues and we may not achieve or sustain profitability in the future.

We have incurred significant losses in each fiscal year since our incorporation in 2006. We experienced a net loss of $18.2 million during the year ended December 31, 2022 and a net loss of $12.9 million during the year ended December 31, 2021. As of December 31, 2022, we had an accumulated deficit of $322.3 million. The losses and accumulated deficit were due largely to the substantial investments we made to grow our business and acquire customers. Our cost of revenues and operating expenses could increase in the future due to investments designed to grow our business, acquire customers and develop our platform and new functionality. These efforts may prove more expensive than we currently anticipate, and we may not succeed in increasing our revenues sufficiently to offset these higher expenses. Our revenues have decreased over the last several years, decreasing from $30.0 million in 2020 to $24.4 million in 2021 and to $20.0 million in 2022. To increase revenues, we need to sell our services to more new customers and improve customer retention, which may also increase revenue earned from our revenue share agreements. Many of our efforts to generate revenues from our business are new and unproven and may be exacerbated by the effects of any worsening of general macroeconomic conditions, and any failure to increase our revenues or generate revenues from new solutions or to maintain or increase revenues from existing products and customers could prevent us from attaining or increasing profitability. We do not expect to be profitable in 2023 on the basis of generally accepted accounting principles in the United States, or GAAP, and we cannot be certain that we will be able to attain profitability on a quarterly or annual basis, or if we do, that we will sustain profitability.

We expect to continue to incur losses and experience negative cash flows, and we may need to reduce operating expenses, sell additional securities, sell assets or borrow additional funds to fund our business plans.

We currently operate at a loss and we anticipate that we will continue to have operating losses in the near term. Our business has not generated enough cash flow to fund our sales and marketing activities, research and development initiatives and other business activities. Our ability to return to growth and to realize profitability is substantially dependent upon our ability to improve customer retention rates, increase new bookings and manage our cash flows. To achieve this, we plan to attempt to increase our market share for our current services through sales and marketing efforts, continue development of new platform features and deliver efficient service to customers, which may require additional capital and expenditures, which may be difficult, especially if general macroeconomic conditions worsen. If we do not realize increases in our revenue, we may need to reduce operating expenses through successful cost-cutting measures or seek to sell additional securities, sell assets or borrow additional funds to fund our business plans. There is no guarantee that we will be able to successfully reduce our operating expenses through successful cost–cutting measures. Further, there is no guarantee that we will be able to issue additional securities or sell assets in future periods or borrow funds on commercially reasonable terms, or at all, in order to meet our cash needs. Our ability to raise additional financing is subject to a number of uncertainties, including but not limited to, the market demand for our stock, our financial performance and outlook, the market demand for products and services, and adverse market conditions.

We may require additional capital to support business growth, and this capital might not be available on acceptable terms, if at all.

We intend to continue to make investments to support our business growth and may require additional funds to respond to business challenges, including the need to develop new features or enhance our existing platform, continue the deployment of MarinOne, and improve our operating infrastructure. Accordingly, we may need to engage in equity or debt financing to secure additional funds. If we raise additional funds through further issuance of equity or convertible debt securities our existing stockholders could suffer significant dilution, and any new equity securities we issue could have rights, preferences and privileges superior to those of holders of our common stock. For example, during the year ended December 31, 2021, we sold 5.5 million shares of our common stock under equity distribution agreements with JMP Securities LLC, or JMP Securities, and received proceeds of approximately $41.7 million, net of offering costs of $1.5 million, at a weighted average sales price of $7.85 per share. The 5.5 million shares of our common stock that we issued under the equity distribution agreements during 2021 increased the number of outstanding shares of our common stock by approximately 57%, resulting in dilution to the percentage ownership of our previously existing stockholders. Additionally, during the year ended December 31, 2022, we sold 1.1 million shares of our common stock under a new equity distribution agreement with JMP Securities for the sale of up to $50.0 million of new securities in an “at-the-market” common stock offering facility and received proceeds of approximately $1.3 million, net of offering costs of $0.1 million, at a weighted average sales price of $1.33 per share. In accordance with the SEC’s Instruction I.B.6 of Registration Statement on Form S-3, we adjusted the maximum aggregate market value of the securities that may be sold pursuant to this current "at-the-market" securities offering facility from $50.0 million to approximately $22.8 million based on our estimated market capitalization on the date we filed our Annual Report on Form 10-K for the year ended December 31, 2021 until such time, if at all, when we are required to make any further adjustments to the maximum aggregate offering size or we become eligible to conduct such offering in accordance with Instruction I.B.1 of the Registration Statement on Form S-3.

In May 2020, we entered into a loan agreement with Harvest Small Business Finance, LLC, or the Lender, as the lender for a loan in an aggregate principal amount of $3.3 million, or the Loan, pursuant to the Paycheck Protection Program under the Coronavirus Aid, Relief, and Economic Security (CARES) Act. An aggregate principal amount of $3.1 million of the Loan was forgiven in January 2022 and we repaid the remaining outstanding balance of $0.2 million in February 2022. The U.S. Department of the Treasury, or the Treasury, and the U.S. Small Business Administration, or the SBA, have announced that they will review all Payroll Protection Program loans that equal or exceed $2.0 million. While we believe that we acted in good faith and complied with all requirements of the Payroll Protection Program, if Treasury or SBA determined that our Loan application was not made in good faith or that we did not otherwise meet the eligibility requirements of the Payroll Protection Program, we could be required to return the Loan or a portion thereof. Any debt financing secured by us in the future could involve restrictive covenants relating to our capital raising activities and other financial and operational matters, which may make it more difficult for us to obtain additional capital and to pursue business opportunities. In addition, we may not be able to obtain additional financing on terms favorable to us, if at all. If we are unable to obtain adequate financing or financing on terms satisfactory to us, when we require it, our ability to continue to support our business growth and to respond to business challenges could be significantly impaired.

Our usage-based pricing model makes it difficult to forecast revenues from our current customers and future prospects.

We primarily have a usage-based pricing model in which most of our fees are calculated as a percentage of customers' advertising spend managed on our platform. This pricing model makes it difficult to accurately forecast revenues because our customers' advertising spend managed by our platform may vary from month to month based on the variety of industries in which our advertisers operate, the seasonality of those industries and fluctuations in our customers' advertising budgets or other factors. The market for digital advertising may be adversely affected by adverse market conditions, including inflation or the effects of any general market recession or the economic effects of the COVID-19 pandemic, which has caused some advertisers to, and may continue to lead advertisers to, reduce the amount of their digital advertising spend. Our subscription contracts with our direct advertiser customers generally contain a minimum monthly platform fee, which is generally greater than one-half of our estimated monthly revenues from the customer at the time the contract is signed, and, as a result, the minimum monthly platform fee may not be a good indicator of our revenues from that customer. In addition, advertisers that use our platform through our agency customers typically do not have a minimum monthly spend amount or a minimum term during which they must use our platform, and as a result, our ability to forecast revenues from these advertisers is difficult. If we incorrectly forecast revenues for these advertisers and the amount of revenue is less than projections we provide to investors, the price of our common stock could decline substantially. Additionally, if we overestimate usage, we may incur additional expenses in adding infrastructure, without a commensurate increase in revenues, which would harm our gross margins and other operating results.

We may experience quarterly fluctuations in our operating results due to a number of factors which make our future results difficult to predict and could cause our operating results to fall below expectations or our guidance.

Our quarterly operating results may fluctuate due to a variety of factors, many of which are outside of our control. As a result, comparing our operating results on a period-to-period basis may not be meaningful. You should not rely on our past results as indicative of our future performance. If our revenues or operating results fall below the expectations of investors or securities analysts, or below any guidance we may provide to the market, the price of our common stock could decline substantially.

In addition to other risk factors listed in this section, factors that may affect our quarterly operating results include the following:

- the impact of market volatility or other macroeconomic conditions such as inflation, increased interest rates and any recession, or other economic disruptions;
- the level of advertising spend managed through our platform for a particular quarter;
- fluctuations in the contractual rates of our strategic agreements with publishers;
- customer renewal or contract termination rates, and the pricing and usage of our platform in any renewal term;
- demand for our platform and the size and timing of our sales;
- customers delaying purchasing decisions in anticipation of new releases by us or of new products by our competitors;
- any termination or adverse changes in the Google Revenue Share Agreement, or any changes in any other current or future strategic agreements with publishers;
- any service defects and any costs related to any such service defects;

- delays in projects to upgrade our own software platform infrastructure and any resulting delays in releasing new features;
- network or system outages, platform downtime, software application or operations errors, software bugs, security breaches or other supplier system or supply chain changes or interruptions and any associated credits, warranty claims or other expenses;
- changes in the competitive dynamics of our industry, including consolidation among competitors or customers;
- market acceptance of our current and future solutions;
- changes in spending on digital advertising or information technology and software by our current and/or prospective customers;
- budgeting cycles of our customers;
- departures of employees or restructurings of our teams or personnel;
- our potentially lengthy sales cycle;
- our ability to control costs, including our operating expenses;
- expenses we incur in relation to governmental investigations of Google and Meta;
- foreign currency exchange rate fluctuations; and
- political conditions in our domestic and international markets, including hostilities in international markets.

Based upon all of the factors described above, we have a limited ability to forecast our future revenues, costs and expenses, and as a result, our operating results may from time to time fall below our estimates or the expectations of public market analysts and investors.

Risks related to our Business and Market

If the market for digital advertising slows or declines, our business, growth prospects, and financial condition would be adversely affected.

The future growth of our business could be constrained by the level of acceptance and expansion of emerging cloud-based advertising channels, as well as the continued use and growth of existing channels, such as search and social advertising. Even if these channels become widely adopted, advertisers and agencies may not make significant investments in solutions such as ours that help them manage their digital advertising spend across publisher platforms and advertising channels. It is difficult to predict customer adoption rates, customer demand for our platform, the future growth rate and size of the advertising cloud solutions market or the entry of competitive solutions. The market for digital advertising may be adversely affected by adverse market conditions, including inflation or the effects of any general market recession or any lingering or renewed economic effects of the COVID-19 pandemic, which caused some advertisers to, and may continue to lead advertisers to, reduce the amount of their digital advertising spend. Any expansion of the market for advertising cloud solutions depends on a number of factors, including growth of the cloud-based advertising market, growth of social and mobile as advertising channels and the cost, performance and perceived value associated with advertising cloud solutions, as well as the ability of cloud computing companies to address security and privacy concerns. Further, the cloud computing market is less developed in many jurisdictions outside the United States. If we or other cloud computing providers experience security incidents, loss of customer data, disruptions in delivery or other problems, the market for cloud computing as a whole, including our applications, may be negatively affected.

We operate in a rapidly developing and changing industry, which makes it difficult to evaluate our current business and future prospects.

We have encountered and will continue to encounter risks and difficulties frequently experienced by companies in rapidly developing and changing industries, including hiring and retaining qualified employees, determining appropriate investments of our limited resources, market acceptance of our existing and future solutions, competition from established companies with greater financial and technical resources, acquiring and retaining customers, managing customer deployments, making improvements to our existing products and developing new solutions. Our current operations infrastructure may require changes in order for us to achieve profitability and scale our operations efficiently. For example, we may need to automate portions of our solution to decrease our costs, ensure our marketing infrastructure is designed to drive highly qualified leads cost effectively and implement changes in our sales model to improve the predictability of our sales and reduce our sales cycle. In addition, from time to time, we may need to make additional investments in product development to address market demands, which may increase our overall expenses and reduce our ability to achieve profitability. If we fail to implement these changes in a timely manner or are unable to implement them due to factors beyond our control, our business may suffer, our revenue may decline and we may not be able to achieve growth or profitability. We cannot be assured that we will be successful in addressing these and other challenges we may face in the future.

We must develop and introduce enhancements and new features that achieve market acceptance or that keep pace with technological developments to remain competitive in our evolving industry.

We operate in a dynamic market characterized by rapidly changing technologies and industry and legal standards. The introduction of new advertising platform solutions by our competitors, the market acceptance of solutions based on new or alternative technologies, or the emergence of new industry standards could render our platform obsolete. Our ability to compete successfully, attract new customers and increase revenues from existing customers depends in large part on our ability to enhance and improve our existing cross-channel, cross-device, enterprise marketing software platform and to continually introduce or acquire new features that are in demand by the market we serve. We also must update our software to reflect changes in publishers' application programming interfaces, or APIs, and terms of use. We have deployed our latest platform, MarinOne, and are in the process of deploying new features and services, including MarinOne Budget Optimizer. The success of these projects or any other enhancement or new solution depends on several factors, including timely completion, adequate quality testing, effective migration of existing customers with minimal disruption and appropriate introduction and market acceptance. Any new platform or feature that we develop or acquire may not be introduced in a timely manner, may contain defects, may be more costly to compete than we anticipate or may not achieve the broad market acceptance necessary to generate significant revenues. If we are unable to upgrade our software platform and features effectively or in a timely manner, or to anticipate or timely and successfully develop or acquire new offerings or features or enhance our existing platform to meet customer requirements, our business and operating results will be adversely affected.

If we are unable to maintain our relationships with, and access to, publishers, advertising exchange platforms and other platforms that aggregate the supply of advertising inventory, our business will suffer.

We currently depend on relationships with various publishers, including Amazon, Apple, Baidu, Bing, Meta, Google, Instagram, LinkedIn, Pinterest, Twitter, Verizon Media, Walmart and Yahoo!. Our subscription services interface with these publishers' platforms through APIs, such as the Google API or Meta API. We are subject to the respective platforms' standard API terms and conditions, which govern the use and distribution of data from these platforms. Our business significantly depends on having access to these APIs, particularly the Google API, which the substantial majority of our customers use, on commercially reasonable terms and our business would be harmed if any of these publishers, advertising exchanges or aggregators of advertising inventory discontinues or limits access to their platforms, modifies their terms of use or other policies or place additional restrictions on us as API users, or charges API license fees for API access. Moreover, some of these publishers, such as Google, market competitive solutions for their platforms. Because the advertising inventory suppliers control their APIs, they may develop competitive offerings that are not subject to the limits imposed on us through the API terms and conditions. Currently, restrictions in these API agreements limit our ability to implement certain functionality, require us to implement functionality in a particular manner or require us to implement certain required minimum functionality, causing us to devote development resources to implement certain functionality that we would not otherwise include in our subscription services and to incur costs for personnel to provide services to implement functionality that we are prohibited from automating. Publishers, advertising exchanges and advertising inventory aggregators update their API terms of use from time to time and new versions of these terms could impose additional restrictions on us. In addition, publishers, advertising exchanges and advertising inventory aggregators continually update their APIs and may update or modify functionality, which has required us to, and will likely continue to require us to modify our software to accommodate these changes and to devote technical resources and personnel to these efforts which could otherwise be used to focus on other priorities. In particular, we invested significant research and development resources in recent periods to transition to a new API recently released by Google. Any of these outcomes could cause disruptions in our service, demand for our products to decrease, our research and development costs to increase, and our results of operations and financial condition to be harmed.

We have also entered into long-term strategic agreements with certain leading search publishers. Under these strategic agreements, we receive consideration based on a percentage of the search advertising spend that our customers manage on our platform. The majority of our strategic agreement revenue is concentrated in one revenue share agreement with Google. We entered into our original revenue share agreement with Google in December 2018 for a three-year term that ran from October 1, 2018 until September 30, 2021. We entered into a new revenue share agreement with Google in September 2021 for a three-year term scheduled to run from October 1, 2021 until September 30, 2024. Under these Google Revenue Share Agreements, we have been eligible to receive fixed and variable revenue share payments based on a percentage of the search advertising spend that is managed through our platform. For the years ended December 31, 2022 and 2021, we recognized revenues of $7.2 million and $8.6 million, respectively, from the applicable Google Revenue Share Agreement. Google has the right to terminate our current Google Revenue Share Agreement in certain circumstances, and any termination or amendment of this agreement would have a material adverse effect on our results of operations.

Our growth depends in part on the success of our relationships with advertising agencies and our strategic relationships with third parties.

Our future growth will depend, in part, on our ability to enter into successful relationships with advertising agencies. Identifying agencies and negotiating and documenting relationships with them requires significant time and resources. These relationships may not result in additional customers or enable us to generate significant revenues. Our contracts for these relationships are typically non-exclusive and do not prohibit the agency from working with our competitors or from offering competing services. Frequently, these agencies do in fact work with our competitors and compete with us. In addition, we often work with, or seek to work with, high-profile brands directly. This may not be possible where, for example, those brands obtain advertising services exclusively or primarily from advertising agencies.

We generally bill agencies for their customers' use of our platform, but in most cases the agency's customer has no direct contractual commitment to make payment to us. Furthermore, some of these agency contracts include provisions whereby the agency is not liable for making payment to us for our subscription services if the agency does not receive a corresponding payment from its client on whose behalf the subscription services were rendered. These provisions may result in longer collections periods or our inability to collect payment for some of our subscription services. If we are unsuccessful in establishing or maintaining our relationships with these agencies on commercially reasonable terms, or if these relationships are not profitable for us, our ability to compete in the marketplace or to grow our revenues could be impaired and our operating results would suffer.

Our future growth will also depend, in part, on our ability to enter-into and retain successful strategic relationships with third-parties. For example, we are seeking to establish relationships with third-parties to develop integrations with complementary technology and content. These relationships may not result in additional customers or enable us to generate significant revenues. For example, we have entered into Revenue Share Agreements with Google pursuant to which we are or have been eligible to receive fixed and variable revenue share payments based on a percentage of the search advertising spend that is managed through our platform. Identifying partners and negotiating and documenting relationships with them require significant time and resources. Our contracts for these relationships are typically non-exclusive and do not prohibit the other party from working with our competitors or from offering competing services. If we are unsuccessful in establishing or maintaining our relationships with these third parties, our ability to compete in the marketplace or to grow our revenues could be impaired and our operating results would suffer.

We may not be able to compete successfully against current and future competitors.

The overall market for advertising cloud solutions is rapidly evolving, highly competitive, complex, fragmented, and subject to changing technology and shifting customer needs. We face significant competition in this market and we expect competition to intensify in the future. We currently compete with large, well-established public companies, such as Adobe Systems Incorporated and Google Inc., and privately held companies, such as Skai.io. We also compete with channel-specific offerings, in-house proprietary tools, tools from publishers and custom solutions, including spreadsheets. We believe that our most significant competition comes from the SA360 product that is offered by Google and from other digital ad management tools offered by Google and other publishers. Increased competition may result in reduced pricing for our solutions, longer sales cycles or a decrease of our market share, any of which could negatively affect our revenues and future operating results and our ability to grow our business.

A number of competitive factors could cause us to lose potential sales or to sell our solutions at lower prices or at reduced margins, including, among others:

- Google and other publishers generally offer their tools for free, or at a reduced price, as their primary compensation is via the sale of advertising on their own or syndicated websites;
- some of our competitors, such as Adobe, Meta and Google, have greater financial, marketing and technical resources than we do, allowing them to leverage a larger installed customer base, adopt more aggressive pricing policies, and devote greater resources to the development, promotion and sale of their products and services than we can;
- channel-specific competitors, such as Skai.io and Smartly.io, may devote greater resources to the development, promotion and sale of their channel-specific products and services than we can;
- companies may enter our market by expanding their platforms or acquiring a competitor; and
- potential customers may choose to develop or continue to use internal solutions rather than paying for our solutions or may choose to use a competitor's solution that has different or additional technical capabilities.

We cannot assure you that we will be able to compete successfully against current and future competitors. If we cannot compete successfully, our business, results of operations and financial condition could be negatively impacted.

We are incurring expenses related to governmental investigations of Google and Meta.

In 2020, U.S. federal and state and foreign governments and regulatory agencies initiated lawsuits or investigations against Google and Meta related to certain of their anticompetitive business practices and conduct in the digital advertising and social media industries and we cannot be certain as to how such lawsuits and investigations might affect Google or Meta or otherwise affect the digital advertising industry. We are not a party to any such lawsuits or investigations. As a participant in the digital advertising industry and having business relationships with Google and Meta, certain governmental authorities and Google and have requested us to provide information to them in connection with such lawsuits and investigations, and responding to such requests has caused us to incur, and may cause us to incur in the future from time to time, professional fees and other expenses in connection with responding to such requests.

Our business depends on our customers' continued willingness to manage advertising spend on our platform.

In order for us to improve our operating results, it is important that our customers continue to manage their advertising spend on our platform, increase their usage and also purchase additional solutions from us. In the case of our direct advertiser customers, we offer our solutions primarily through subscription contracts and generally bill customers over the related subscription period, which is generally one year or longer. During the term of their contracts, our direct advertiser customers generally have no obligation to maintain or increase their advertising spend on our platform beyond a specified minimum monthly platform fee, which is typically set at the time the contract is signed and is generally greater than half of the monthly amount we anticipate the customer will spend. Our direct advertiser customers generally have no renewal obligation after the initial or then-current renewal subscription period expires, and even if customers renew contracts, they may decrease the level of their digital advertising spend managed through our platform, resulting in lower revenues from that customer. Some customers, including some of our largest customers, have contractual rights to terminate their agreements with us in some circumstances. Advertisers that we serve through our arrangements with our advertising agencies generally do not have any contractual commitment to use our platform. Our customers' usage may decline or fluctuate as a result of a number of factors, including, but not limited to, their satisfaction with our platform and our customer support, the frequency and severity of outages, the pricing of our, or competing, solutions, the effects of global economic conditions and reductions in spending levels or changes in our customers' strategies regarding digital advertising. We may not be able to accurately predict future usage trends. If our customers renew on less favorable terms or reduce their advertising spend on our platform, our revenues may grow more slowly than expected or decline.

Unfavorable conditions in the market for digital advertising or the global economy or reductions in digital advertising spend could negatively affect our operating results.

Potential revenue growth and profitability of our business depends on digital advertising spend by advertisers in the markets we serve. Our operating results may vary based on changes in the market for digital advertising or the global economy. To the extent that weak economic conditions cause our customers and potential customers to freeze or reduce their advertising budgets, particularly digital advertising, demand for our solution may be negatively affected.

Historically, economic downturns have resulted in overall reductions in advertising spend. If general macroeconomic conditions deteriorate or the rise of geopolitical instability and military hostilities or global health emergencies and pandemics such as COVID-19 causes economic uncertainty, our customers and potential customers may elect to decrease their advertising budgets or defer or reconsider software and service purchases, which would limit our ability to grow our business and negatively affect our operating results.

Risks related to the COVID-19 Pandemic

The COVID-19 global pandemic has adversely affected and may continue to adversely affect our business and operating results.

We believe that the COVID-19 pandemic has had, and any lingering effects of the pandemic may continue to have, an adverse effect on many of our customers and their businesses and their spending on digital advertising, which has had an adverse effect on our results of operations and may affect our future results of operations.

We cannot predict the extent to which any lingering effects of the COVID-19 pandemic may affect our future business or operating results, which is highly dependent on inherently uncertain future developments, including the severity of outbreaks of COVID-19, the effects of new variants, the actions taken by governments and private businesses in relation to COVID-19 containment, the availability, deployment and efficacy of vaccines, and the transition from COVID-19 being a pandemic to an endemic illness. In geographies where we, our customers or our employees operate, health concerns and political or governmental developments in response to COVID-19 have resulted in, and could in the future result in, economic, social or labor instability or prolonged contractions in the industries in which our customers operate, slowdowns in our sales process, customers not purchasing or renewing subscriptions to our platform or reducing the amount of digital advertising that they manage using our platform, customers failing to make payments, slowdowns in our product development efforts, or other effects that may have a material adverse effect on our business or our results of operations and financial condition. Recently, the effects of the pandemic have been most severe in China, where we employ several members of our product development team. Because our platform is offered as a subscription-based service, the effect of the pandemic may not be fully reflected in our operating results until future periods, if at all.

Operational Risks

Our business depends on retaining and attracting qualified personnel, and turnover may result in operational inefficiencies that could negatively affect our business.

Our success depends upon the continued service of our talented management, operational and key technical employees, as well as our ability to continue to attract additional highly qualified talent. We have experienced employee attrition and have conducted restructuring actions. Any changes in our operations and management team could be disruptive to our operations. Any future restructuring actions or employee attrition could have an adverse effect on our business as a result of operational and administrative inefficiencies and added costs, decreases in employee morale and the failure to meet operational targets due to the loss of employees. If key employees leave, we may not be able to fully integrate new personnel or replicate the prior working relationships, which could adversely affect our results of operations, stock price and customer relationships, and could make recruiting for future management and other positions more difficult. In addition, changes in other key positions may temporarily affect our financial performance and results of operations as new employees become familiar with our business.

We do not maintain key person life insurance policies on any of our employees. Each of our executive officers, key technical personnel and other employees could terminate his or her relationship with us at any time. Our business also requires skilled technical, sales and other personnel, who are in high demand and are often subject to competing offers. If we expand into additional geographic markets, we will require personnel with expertise in these new areas. Competition for qualified employees is particularly intense in our industry and particularly in San Francisco, California. An inability to retain, attract, relocate and motivate employees required for our business could delay or prevent the achievement of our business objectives and could materially harm our business and our customer relationships.

Since the start of the COVID-19 pandemic in March 2020, most of our employees have been working remotely. In addition, the lease for our largest office, in San Francisco, California, expired in July 2022. As a result of these developments, we have transitioned to a more hybrid working environment with a larger number of employees dispersed remotely, which may present challenges to maintaining our corporate culture or employee productivity. We expect that most of our employees will work remotely for most of the time for the foreseeable future. Any failure to preserve our culture or productivity could negatively affect our future success, including our ability to retain and recruit personnel and to effectively focus on and pursue our corporate objectives.

Additionally, our equity incentive plan is scheduled to expire in accordance with its terms in 2023. We intend to seek shareholder approval for a new equity incentive plan in 2023. Any failure to obtain shareholder approval for a new equity incentive plan in 2023 could adversely affect our ability to attract and retain employees through equity incentives.

We incur upfront costs associated with onboarding advertisers to our platform and may not recoup our investment if we do not maintain the advertiser relationship over time.

Our operating results may be negatively affected if we are unable to recoup our upfront costs for onboarding new advertisers to our platform. Upfront costs when adding new advertisers generally include sales commissions for our sales force, expenses associated with entering customer data into our platform and other implementation-related costs. Because our customers, including direct advertisers and agencies, are billed over the term of the contract, if new customers sign contracts with short initial subscription periods and do not renew their subscriptions, or otherwise do not continue to use our platform to a level that generates revenues in excess of our upfront expenses, our operating results could be negatively impacted. In cases in which the implementation process is particularly complex, the revenues resulting from the customer under our contract may not cover the upfront investment; therefore, if a significant number of these customers do not renew their contracts, it could negatively affect our operating results. In addition, because we capitalize certain upfront costs to obtain and fulfill contracts under authoritative accounting guidance, we could be required to record impairment expense for these upfront costs if the estimated revenue for these contracts is not realized.

Because we generally bill our customers over the term of the contract, near term decline in new or renewed subscriptions may not be reflected immediately in our operating results.

Most of our revenues in each quarter are derived from contracts entered into with our customers during previous quarters. Consequently, a decline in new or renewed subscriptions in any one quarter may not be fully reflected in our revenues for that quarter. Such declines, however, would negatively affect our revenues in future periods and the effect of significant downturns in sales and market acceptance of our solutions, and potential changes in our rate of renewals or renewal terms, may not be fully reflected in our results of operations until future periods. In addition, we may be unable to adjust our cost structure rapidly, or at all, to take account of reduced revenues. Our subscription model also makes it difficult for us to rapidly increase our total revenues through additional sales in any period, as revenues from new customers must be earned over the applicable subscription term based on the value of their monthly advertising spend.

We have been dependent on our customers' use of search advertising. Any decrease in the use of search advertising or our inability to further penetrate social and eCommerce advertising channels would harm our business, growth prospects, operating results and financial condition.

Historically, our customers have primarily used our solutions for managing their search advertising, including mobile search advertising, and the substantial majority of our revenue is derived from advertisers that use our platform to manage their search advertising. We expect that search advertising will continue to be the primary channel used by our customers for the foreseeable future. Should our customers lose confidence in the value or effectiveness of search advertising, or if search advertising growth moderates or declines, the demand for our solutions may decline, and it may negatively impact our revenues. In addition, our failure to achieve market acceptance of our solution for the management of social and eCommerce advertising spend would harm our growth prospects, operating results and financial condition.

Our sales cycle can be long and unpredictable and require considerable time and expense, which may cause our operating results to fluctuate.

The sales cycle for our solutions, from initial contact with a potential lead to contract execution and implementation, varies widely by customer, but can take as long as three to nine months. Some of our customers undertake a significant evaluation process that frequently involves not only our solutions but also those of our competitors, which has in the past resulted in extended sales cycles. Our sales efforts involve educating our customers about the use, technical capabilities and benefits of our platform. In addition, under certain circumstances, we sometimes offer an initial term, typically of a few months in duration, to new customers who may terminate their subscription at any time during this initial period before the fixed term contract commences. We have no assurance that the substantial time and money spent on our sales efforts will produce any sales. If our sales efforts result in a new customer subscription, the customer may terminate its subscription during the initial period, after we have incurred the expenses associated with entering the customer's data in our platform and related training and support. If sales expected from a customer are not realized in the time period expected or not realized at all, or if a customer terminates during the initial period, our business, operating results and financial condition could be adversely affected.

Historically, a significant portion of our field sales and professional services were conducted in-person. Since the work and travel restrictions related to the COVID-19 pandemic began, substantially all of our sales and professional services activities have been, and continue to be, conducted remotely. As of the date of this report, we do not yet know the extent of any negative impact of these changes on our ability to attract, serve, retain or upsell customers.

Our ability to generate revenue depends on our collection of significant amounts of data from various sources.

Our ability to optimize the delivery of Internet advertisements for our customers depends on our ability to successfully leverage data, including data that we collect from our customers as well as data provided by publishers and from third parties. Using cookies and similar tracking technologies, we collect information about the interaction of users with our advertisers' and publishers' websites. Our ability to successfully leverage such data is dependent upon our continued ability to access and utilize such data. Our ability to access and use such data could be restricted by a number of factors, including consumer choice, restrictions imposed by advertisers and publishers, changes in technology, and new developments in laws, regulations, and industry standards.

For example, the release by Apple of its iOS 14 operating systems in April 2021 brought with it a number of new changes, including the need for mobile app users to opt-in before their identifier for advertisers, or IDFA, can be accessed by an app. Apple's IDFA is a string of numbers and letters assigned to Apple devices which advertisers use to identify app users to deliver personalized and targeted advertising. Although we do not rely heavily on IDFA, low opt-in rates to grant IDFA access may result in advertisers rethinking their conversion tracking strategy. Any reduced ability of advertisers to accurately target and measure their advertising campaigns may cause spend fluctuations. If consumer resistance to the collection and sharing of the data used to deliver targeted advertising continues to increase, or the use and adoption of consent / Do Not Track mechanisms increases as a result of industry regulatory and/or legal developments, and/or new technologies are developed and deployed that have a material impact on our ability to collect data, such developments could have a material adverse effect on our results of our operations.

Material defects, errors or disruptions in our software platform could harm our reputation, result in significant costs to us and impair our ability to sell our subscription services.

The software applications underlying our subscription services are inherently complex and may contain material defects or errors, which may cause disruptions in availability, misallocation of advertising spend or other performance problems. Any such errors, defects, disruptions in service or other performance problems with our software platform, including those resulting from new versions or updates to our software platform or from changes or interruptions to third party applications or systems that we interconnect with, could negatively impact our customers' businesses or the success of their advertising campaigns and cause harm to our reputation. If we have any errors, defects, disruptions in service or other performance problems with our software platform, customers could elect not to renew or reduce their usage or delay or withhold payment to us, which could result in an increase in our provision for doubtful accounts or an increase in the length of collection cycles for accounts receivable. Errors, defects, disruptions in service or other performance problems could also result in customers making warranty or other claims against us, us providing refunds or credits to our customers toward future advertising spend, or costly litigation. We implement bug fixes and upgrades as part of our regularly scheduled system maintenance. If we do not complete this maintenance according to schedule or if customers are otherwise dissatisfied with the frequency and/or duration of our maintenance services, customers could elect not to renew, or delay or withhold payment to us, or cause us to issue credits, make refunds or pay penalties.

On occasion, we have granted credits to some of our customers in connection with product issues that resulted in unexpected ad spending, and we may agree to grant certain credits in the future, particularly as we gain experience with new products and features. After the release of new versions of our software or new products or features, defects or errors may be identified from time to time by our internal team and by our customers. We have recently launched our new MarinOne Budget Optimizer solution and we may observe performance issues with the product as it becomes more widely deployed with more customers and in more use cases. Changes or interruptions to third party applications or systems that we interconnect with could cause us to incur significant time and expense to remedy such issues or develop integrations with other third-party suppliers. As a result, material defects or errors in our platform could have a material adverse impact on our business and financial performance.

We primarily derive our revenues from a single software platform and any factor adversely affecting subscriptions to our platform could harm our business and operating results.

We primarily derive our revenues from sales of a single software platform. As such, any factor adversely affecting subscriptions to our platform, including product release cycles, market acceptance, product competition, performance and reliability, reputation, price competition, and economic and market conditions, could harm our business and operating results.

If mobile connected devices, their operating systems or content distribution channels, including those controlled by our competitors, develop in ways that prevent our advertising campaigns from being delivered to their users, our ability to grow our business will be impaired.

Our success in the mobile channel depends upon the ability of our technology platform to integrate with mobile inventory suppliers and provide advertising for most mobile connected devices, as well as the major operating systems that run on them and the applications that are downloaded onto them. For example, the release of iOS 14 brought with it a number of new changes, including the need for app users to opt-in before their identifier for advertisers, or IDFA, can be accessed by an app (which was released April 26, 2021). Apple's IDFA is a string of numbers and letters assigned to Apple devices which advertisers use to identify app users to deliver personalized and targeted advertising. Although we do not rely heavily on IDFA, low opt-in rates to grant IDFA access may result in advertisers rethinking their conversion tracking strategy. Any reduced ability of advertisers to accurately target and measure their advertising campaigns may cause spend fluctuations.

Further, the design of mobile devices and operating systems is controlled by third parties with whom we do not have any formal relationships. These parties frequently introduce new devices, and from time to time they may introduce new operating systems or modify existing ones. Network carriers may also impact the ability to access specified content on mobile devices. If our solution were unable to work on these devices or operating systems, either because of technological constraints or because an operating system or app developer, device maker or carrier wished to impair our ability to purchase inventory and provide advertisements, our ability to generate revenue could be significantly harmed.

If our security measures are breached or unauthorized access to customer data or our data is otherwise obtained, our solutions may be perceived as not being secure, customers may reduce the use of or stop using our solutions and we may incur significant liabilities.

In the ordinary course of our business, we maintain sensitive data on our networks, including our intellectual property and proprietary or confidential business information relating to our business and that of our customers and business partners. The secure maintenance of this information is critical to our business and reputation. Despite the implementation of security measures, our internal information technology systems and infrastructure, and those of our current and any future third parties on which we rely, are vulnerable to breakdown or other damage or interruption from service interruptions, system malfunction, computer viruses, malware, natural disasters, terrorism, war, telecommunication and electrical failures, cyber-attacks or cyber-intrusions over the Internet (including harmful attachments to emails, ransomware, denial-of-service attacks, social engineering, and other means to affect service reliability and threaten the confidentiality, integrity, and availability of information), by persons inside our organization, or by persons with access to systems inside our organization. Any of the foregoing may compromise our system infrastructure, or that of our third-party partners and other contractors and consultants, or lead to data leakage.

The risk of a security breach or disruption, particularly through cyber-attacks or cyber-intrusion, including by computer hackers, foreign governments, and cyber terrorists, has generally increased as the number, intensity and sophistication of attempted attacks and intrusions from around the world have increased. We may not be able to anticipate all types of security threats, and we may not be able to implement preventive measures effective against all such security threats. The techniques used by cyber criminals change frequently, may not be recognized until launched, and can originate from a wide variety of sources. In addition, the prevalent use of mobile devices that access confidential information increases the risk of data security breaches, which could lead to the loss of confidential information or other intellectual property. Because techniques used to obtain unauthorized access or to sabotage systems change frequently and generally are not recognized until launched against a target, we may be unable to anticipate these techniques or to implement adequate preventative measures. Third parties may also attempt to fraudulently induce employees or customers into disclosing sensitive information such as usernames, passwords or other information in order to gain access to our customers' data or our data, including intellectual property and other confidential business information. Moreover, as a result of the COVID-19 pandemic, our employees, service providers and third parties work more frequently on a remote basis, which may involve relying on less secure systems and may increase the risk of, and susceptibility to, cybersecurity related incidents. We cannot guarantee these private work environments and electronic connections to our work environment have the same robust security measures deployed in our physical offices. If an actual or perceived breach of our security occurs, the market perception of the effectiveness of our security measures could be harmed, we could lose potential sales and existing customers or we could incur other liabilities, which could adversely affect our business.

The costs to us to mitigate network security problems, bugs, viruses, worms, malicious software programs and security vulnerabilities could be material, and although we have implemented security measures to protect our data security and information technology systems, our efforts to address these problems may not be successful, and these problems could result in unexpected interruptions, delays, cessation of service and other harm to our business and our competitive position. If the information technology systems of our third-party partners and other contractors and consultants become subject to disruptions or security breaches, we may have insufficient recourse against such third parties and we may have to expend significant resources to mitigate the impact of such an event, and to develop and implement protections to prevent future events of this nature from occurring.

We and our third-party service providers regularly defend against and respond to data security incidents, and we cannot assure you that our data protection efforts and our investment in information technology will prevent significant breakdowns, data leakages, breaches in our systems, or those of our third-party partners and other contractors and consultants, or other cyber incidents that could have a material adverse effect upon our reputation, business, operations, or financial condition. If such an event were to occur that causes interruptions in our operations, or those of our third-party vendors and other contractors and consultants, it could result in a material disruption or delay of our product development programs. Furthermore, significant disruptions of our internal information technology systems or those of our third-party vendors and other contractors and consultants, or security breaches could result in the loss, misappropriation, and/or unauthorized access, use, or disclosure of, or the prevention of access to, confidential information (including trade secrets or other intellectual property, proprietary business information, and personal information), which could result in financial, legal, business, and reputational harm to us. If any such event, including a computer security breach, results in the unauthorized access, use or release of personally identifiable information, our reputation could be materially damaged. In addition, such a breach may require notification to governmental agencies, the media or individuals pursuant to various federal and state privacy and security laws (and other similar non-U.S. laws), subject us to mandatory corrective action, and otherwise subject us to liability under laws and regulations that protect the privacy and security of personal information. For example, data breaches frequently result in regulatory actions and commercial and class action litigation based on a variety of laws and legal duties, such as the CCPA, which provides for a private right of action in the event of certain data security breaches. Such actions could result in significant legal and financial exposure and reputational damages that could have a material adverse effect on our business, results of operations, prospects and financial condition.

In addition, our insurance may not cover all costs from a security incident or breach. The assertion of a claim against our insurance policies could result in premium increases, imposition of a large deductible or other adverse circumstances.

We primarily use third-party data centers to deliver our services. Any disruption of service at these facilities could harm our business.

We manage a significant portion of our services and serve substantially all of our customers from only a single third-party data center facility. While we control the actual computer, network and storage systems upon which our platform runs, and deploy them to the data center facility, we do not control the operation of the facility. The owner of the facility has no obligation to renew the agreement with us on commercially reasonable terms, or at all. If we are unable to renew the agreement on commercially reasonable terms, we may be required to transfer to a new facility or facilities, and we may incur significant costs and possible service interruption in connection with doing so.

The facility is vulnerable to damage or service interruption resulting from human error, intentional bad acts, cyberattacks, earthquakes, hurricanes, floods, fires, war, terrorist attacks, power losses, hardware failures, systems failures, telecommunications failures and similar events. Moreover, while we have a disaster recovery plan in place, we do not maintain a "hot failover" instance of our software platform permitting us to immediately switch over in the event of damage or service interruption at our data center. The occurrence of a natural disaster or an act of terrorism, any outages or vandalism or other misconduct, or a decision to close the facility without adequate notice or other unanticipated problems could result in lengthy interruptions in our services.

Any changes in service levels at the facility or any errors, defects, disruptions or other performance problems at or related to the facility that affect our services could harm our reputation and may damage our customers' businesses. Interruptions in our services might reduce our revenues, subject us to potential liability, or result in reduced usage of our platform. In addition, some of our customer contracts require us to issue credits for downtime in excess of certain levels and in some instances give our customers the ability to terminate their subscriptions.

We also depend on third-party Internet-hosting providers and continuous and uninterrupted access to the Internet through third-party bandwidth providers to operate our business. If we lose the services of one or more of our Internet-hosting or bandwidth providers for any reason or if their services are disrupted, for example due to viruses or "denial-of-service" or other attacks on their systems, or due to human error, intentional bad acts, power loss, hardware failures, telecommunications failures, fires, wars, terrorist attacks, floods, earthquakes, hurricanes, tornadoes or similar events, we could experience disruption in our ability to offer our solutions or we could be required to retain the services of replacement providers, which could increase our operating costs and harm our business and reputation.

Depending upon the level of our customers' usage of our software platform, we may need to continually improve our hosting infrastructure to avoid service interruptions or slower system performance.

We seek to maintain sufficient excess capacity in our infrastructure to meet the needs of all of our customers. We also seek to maintain excess capacity to facilitate the rapid provision of new customer deployments and the expansion of existing customer deployments. For example, if we secure a large customer or a group of customers that require significant amounts of bandwidth or storage, we may need to increase bandwidth, storage, power or other elements of our application architecture and our infrastructure, and our existing systems may not be able to scale in a manner satisfactory to our existing or prospective customers.

The amount of infrastructure needed to support our customers is based on our estimates of anticipated usage. If we were to experience unforeseen increases in usage, we could be required to increase our infrastructure investments resulting in increased costs or reduced gross margins, and if we do not accurately predict our infrastructure capacity requirements, our customers could experience service outages that may subject us to financial penalties and liabilities and result in customer losses. If our hosting infrastructure capacity fails to keep pace with sales, customers may experience service interruptions or slower system performance, which could harm our reputation and adversely affect our revenue growth. As customers use our software platform for more complicated tasks, we will need to devote resources to improve our application architecture and our infrastructure in order to maintain the performance of our software platform. We may need to incur additional costs to upgrade or expand our computer systems and architecture if our systems cannot handle current or higher volumes of usage. In addition, increasing our systems and infrastructure in advance of new customers would cause us to have increased cost of revenues, which can adversely affect our gross margins until we increase revenues that are spread over the increased costs.

Our solutions must integrate with our customers' enterprise applications and infrastructures. If we cannot efficiently implement our solutions for customers, we may lose customers.

Our customers have a variety of different data formats, enterprise applications and infrastructure and our platform must support our customers' data formats and integrate with complex enterprise applications and infrastructures. If our platform does not currently support a customer's required data format or appropriately integrate with a customer's applications and infrastructure, then we may choose to configure our platform to do so, which would increase our expenses. Additionally, we do not control our customers' implementation schedules. As a result, as we have experienced in the past, if our customers do not allocate internal resources necessary to meet their implementation responsibilities or if we face unanticipated implementation difficulties, the implementation may be delayed. Further, in the past, our implementation capacity has at times constrained our ability to successfully implement our solutions for our customers in a timely manner, particularly during periods of high demand. If the customer implementation process is not executed successfully or if execution is delayed, we could incur significant costs, customers could become dissatisfied and decide not to increase usage of our platform, not to use our platform beyond an initial period prior to their term commitment and revenue recognition could be delayed. In addition, competitors with more efficient operating models with lower implementation costs could penetrate our customer relationships.

Additionally, large customers may request or require specific features or functions unique to their particular business processes, which increase our upfront investment in sales and deployment efforts and the revenues resulting from the customers under our typical contract length may not cover the upfront investments. If prospective large customers require specific features or functions that we do not offer, then the market for our solution will be more limited and our business could suffer. In addition, supporting large customers could require us to devote significant development services and support personnel and strain our personnel resources and infrastructure. If we are unable to address the needs of these customers in a timely fashion or further develop and enhance our solution, these customers may not renew their subscriptions, seek to terminate their relationship with us, renew on less favorable terms, or reduce their advertising spend on our platform. If any of these were to occur, our revenues may decline and our operating results could be adversely affected.

If we are unable to maintain or expand our sales and marketing capabilities, we may not be able to generate anticipated revenues.

Increasing our customer base and achieving broader market acceptance of our software platform will depend to an extent on our ability to maintain or expand our sales and marketing operations and activities. We are substantially dependent on our sales force to obtain new customers and our marketing organization to generate a sufficient pipeline of qualified sales leads. We may need to restructure or expand our sales team in order to maintain or increase revenues from new and existing customers and to further penetrate our existing markets. Our solutions require a sophisticated sales force with specific sales skills and technical knowledge. Competition for qualified sales personnel is intense, and we may not be able to retain our existing sales personnel or attract, integrate, train or retain sufficient highly qualified sales personnel. In addition, we may need to invest in lead generation activities to develop our pipeline of qualified opportunities for our sales force, which could increase our marketing expenses. If our lead generation activities do not increase our pipeline or if our sales force is unable to close opportunities at a high rate, then we may not generate an increase in revenues.

Any failure to offer high-quality technical support services may adversely affect our relationships with our customers and harm our financial results.

Our customers depend on our support organization to resolve any technical issues relating to our solutions. Any future changes in our customer support teams could be disruptive to our operations. In addition, our sales process is highly dependent on the quality of our solutions, our business reputation and on strong recommendations from our existing customers. Any failure to maintain high-quality technical support, or a market perception that we do not maintain high-quality support, could harm our reputation, adversely affect our ability to sell our solutions to existing and prospective customers, and harm our business, operating results and financial condition.

We offer technical support services with our solutions and may be unable to respond quickly enough to accommodate short-term increases in customer demand for support services. We also may be unable to modify the format of our support services to compete with changes in support services provided by competitors. It is difficult to predict customer demand for technical support services and if customer demand increases significantly, we may be unable to provide satisfactory support services to our customers. Additionally, increased customer demand for these services, without corresponding revenues, could increase costs and adversely affect our operating results.

Any failure to protect our intellectual property rights could impair our ability to protect our proprietary technology and adversely affect our business, reputation or brand.

Our success and ability to compete depends in part upon our intellectual property. We primarily rely on a combination of copyright, trade secret and trademark laws, as well as confidentiality procedures and contractual restrictions with our employees, customers, partners and others to establish and protect our intellectual property rights, reputation and brand. However, the steps we take to protect our intellectual property rights may be inadequate or we may be unable to secure intellectual property protection for all of our solutions.

If we are unable to protect our intellectual property, our competitors could use our intellectual property to market products and services similar to ours and our ability to compete effectively would be impaired. Moreover, others may independently develop technologies that are competitive to ours or infringe our intellectual property. In addition, we are aware that third parties have been attempting to impersonate us in conducting online scams, which could harm our reputation and brand. The enforcement of our intellectual property rights and the protection of our reputation and brand depends on our legal actions against any infringers being successful, but we cannot be sure these actions will be successful, even when our rights have been infringed. In addition, defending our intellectual property rights and protecting our reputation and brand might entail significant expense and diversion of management resources. Any of our intellectual property rights may be challenged by others or invalidated through administrative processes or litigation. Any patents issued in the future may not provide us with competitive advantages or may be successfully challenged by third parties.

Furthermore, legal standards relating to the validity, enforceability and scope of protection of intellectual property rights are uncertain. Effective protection of our intellectual property may not be available to us in every country in which our solutions are available. The laws of some foreign countries may not be as protective of intellectual property rights as those in the United States, and mechanisms for enforcement of intellectual property rights may be inadequate. Accordingly, despite our efforts, we may be unable to prevent third parties from infringing upon or misappropriating our intellectual property.

We might be required to spend significant resources to monitor and protect our intellectual property rights, our reputation and our brand, and our efforts to enforce our intellectual property rights and protect our reputation and brand may be met with defenses, counterclaims and countersuits attacking the validity and enforceability of our intellectual property rights. Litigation to protect and enforce our intellectual property rights, our reputation and our brand could be costly, time-consuming and distracting to management, whether or not it is resolved in our favor, and could ultimately result in the impairment or loss of portions of our intellectual property.

We could incur substantial costs as a result of any claim of infringement of another party's intellectual property rights.

In recent years, there has been significant litigation in the United States involving patents and other intellectual property rights. Companies in the Internet and technology industries are increasingly bringing and becoming subject to suits alleging infringement of proprietary rights, particularly patent rights, and our competitors may hold patents or have pending patent applications, which could be related to our business. These risks have been amplified by the increase in third parties, which we refer to as non-practicing entities, whose sole primary business is to assert such claims. We have received in the past, and expect to receive in the future, notices that claim we or our customers using our solutions have misappropriated or misused other parties' intellectual property rights. If we are sued by a third party that claims that our technology infringes its rights, the litigation could be expensive and could divert our management resources. We do not currently have an extensive patent portfolio of our own, which may limit the defenses available to us in any such litigation.

In addition, in most instances, we have agreed to indemnify our customers against certain claims that our subscription services infringe the intellectual property rights of third parties. Our business could be adversely affected by any significant disputes between us and our customers as to the applicability or scope of our indemnification obligations to them. The results of any intellectual property litigation to which we might become a party, or for which we are required to provide indemnification, may require us to do one or more of the following:

- cease offering or using technologies that incorporate the challenged intellectual property;
- make substantial payments for legal fees, settlement payments or other costs or damages;
- obtain a license, which may not be available on reasonable terms, to sell or use the relevant technology; or
- redesign technology to avoid infringement.

If we are required to make substantial payments or undertake any of the other actions noted above as a result of any intellectual property infringement claims against us or any obligation to indemnify our customers for such claims, such payments or costs could have a material adverse effect upon our business and financial results.

Our use of open source technology could impose limitations on our ability to commercialize our software platform.

We use open source software in our platform. Some open source software licenses require users who distribute open source software as part of their software to publicly disclose all or part of the source code to such software and/or make available any derivative works of the open source code on unfavorable terms or at no cost. The terms of various open source licenses have not been interpreted by the U.S. courts, and there is a risk that such licenses could be construed in a manner that imposes unanticipated conditions or restrictions on our ability to market our software platform. While we monitor our use of open source software and try to ensure that none is used in a manner that would require us to disclose our source code or that would otherwise breach the terms of an open source agreement, such use could inadvertently occur and we may be required to release our proprietary source code, pay damages for breach of contract, re-engineer our applications, discontinue sales in the event re-engineering cannot be accomplished on a timely basis or take other remedial action that may divert resources away from our development efforts, any of which could cause us to breach customer contracts, harm our reputation, result in customer losses or claims, increase our costs or otherwise adversely affect our business and operating results.

Because our long-term success depends, in part, on our ability to expand our sales to customers outside the United States, our business will be susceptible to risks associated with international operations.

We currently have personnel and/or customers in China, England, France, Ireland, Japan and Singapore, as well as the United States. Due to our international exposure, our business is susceptible to risks associated with international operations. Managing our business and operations internationally requires considerable management attention and resources and is subject to particular challenges of supporting a rapidly growing business in an environment of diverse cultures, languages, customs, tax laws, legal systems, alternate dispute systems and regulatory systems. In 2020, we restructured our international corporate structure to address changes in international tax laws and regulations, and completion of such restructuring may cause us to incur some additional expense. The risks and challenges associated with international expansion include:

- the need to support and integrate with local publishers and partners;
- continued localization of our platform, including translation into foreign languages and associated expenses;
- competition with companies that have greater experience in the local markets than we do or who have pre-existing relationships with potential customers in those markets;
- compliance with multiple, potentially conflicting and changing governmental laws and regulations, including employment, tax, privacy and data protection laws and regulations and legal and operational changes resulting from the departure of the United Kingdom from the European Union;
- compliance with anti-bribery laws, including compliance with the Foreign Corrupt Practices Act;
- difficulties in invoicing and collecting in foreign currencies and associated foreign currency exposure;
- difficulties in staffing and managing foreign operations and the increased travel, infrastructure and legal compliance costs associated with international operations;
- different or lesser protection of our intellectual property rights;
- difficulties in enforcing contracts and collecting accounts receivable, longer payment cycles and other collection difficulties;
- restrictions on repatriation of earnings;
- exposure to more affected areas of the COVID-19 pandemic; and
- regional economic and political conditions.

We have limited experience in marketing, selling and supporting our subscription services internationally, which increases the risk that any potential future expansion efforts that we may undertake will not be successful.

Fluctuations in the exchange rate of foreign currencies could result in currency transactions losses.

We currently have foreign sales denominated in Australian Dollars, British Pound Sterling, Chinese Yuan, Euros, Japanese Yen and Singaporean Dollars. In addition, we incur a portion of our operating expenses in currencies other than the U.S. Dollar. We face exposure to adverse movements in currency exchange rates, which may cause our revenues and operating results to differ materially from expectations. In addition, the continued uncertainty around the full impact of Brexit and the exact trade arrangements upon exit has adversely impacted global markets, including currencies, and resulted in a decline and volatility in the value of the British Pound Sterling and the Euro, as compared to the U.S. Dollar and other currencies. Volatility in exchange rates and global financial markets may continue due to a number of factors, including political and economic uncertainty. If the U.S. Dollar strengthens relative to foreign currencies, as it has from time to time in the past, our non-U.S. revenues would be adversely affected. Conversely, a decline in the U.S. Dollar relative to foreign currencies would increase our non-U.S. revenues when translated into U.S. Dollars. Our operating results could be negatively impacted depending on the amount of expense denominated in foreign currencies. As exchange rates vary, revenues, cost of revenues, operating expenses and other operating results, when translated, may differ materially from expectations. In addition, our revenues and operating results are subject to fluctuation if our mix of U.S. and foreign currency-denominated transactions or expenses changes in the future because we do not currently hedge our foreign currency exposure. Even if we were to implement hedging strategies to mitigate foreign currency risk, these strategies might not eliminate our exposure to foreign exchange rate fluctuations and would involve costs and risks of their own, such as ongoing management time and expertise, external costs to implement the strategies and potential accounting implications.

Managing a global organization has placed, and may continue to place, significant demands on our management and infrastructure. If we fail to manage our operations effectively, we may be unable to execute our business plan, maintain high levels of service or address competitive challenges adequately.

Managing a global and geographically dispersed workforce and operation has required substantial management effort, the allocation of valuable management resources and significant additional investment in our infrastructure. We will be required to continue to improve our operational, financial and management controls and operations reporting procedures, and we may not be able to do so effectively. Moreover, we may from time to time decide to undertake cost savings initiatives, such as our restructuring in 2020, disposing of, and/or otherwise discontinuing certain products, in an effort to focus our resources on key strategic initiatives and streamline our business. Further, supporting our customers and operations, and driving future growth, we must continually improve and maintain our technology, systems and network infrastructure. As such, we may be unable to manage our expenses effectively in the future, which may negatively impact our gross margins or operating expenses in any particular quarter. If we fail to manage our anticipated growth or change in a manner that does not preserve the key aspects of our corporate culture, the quality of our solutions may suffer, which could negatively affect our brand and reputation and harm our ability to retain and attract customers.

Future acquisitions or divestitures, strategic investments, partnerships or alliances could be difficult to integrate or complete, divert the attention of key management personnel, disrupt our business, dilute shareholder value and adversely affect our results of operations and financial condition.

We acquired and divested businesses in the past and may seek to acquire or divest businesses, products or technologies in the future. However, we have limited experience in acquiring and integrating businesses, products and technologies. If we identify an appropriate acquisition candidate, we may not be successful in negotiating the terms and/or financing of the acquisition, and our due diligence may fail to identify all of the problems, liabilities or other shortcomings or challenges of an acquired business, product or technology, including issues related to intellectual property, product quality or architecture, regulatory compliance practices, revenue recognition or other accounting practices or employee or client issues.

Any acquisition or investment may require us to use significant amounts of cash, issue potentially dilutive equity securities or incur debt. In addition, acquisitions involve numerous risks, any of which could harm our business, including:

- regulatory and commercial risks relating to advertising technologies we may acquire;
- difficulties in integrating the operations, technologies, services and personnel of acquired businesses, especially if those businesses operate outside of our core competency or in foreign countries;
- cultural challenges associated with integrating employees from the acquired company into our organization;
- reputation and perception risks associated with the acquired product or technology by the general public;
- ineffectiveness or incompatibility of acquired technologies or services;

- potential loss of key employees of acquired businesses or of our business;
- inability to maintain the key business relationships and the reputations of acquired businesses or of our business;
- diversion of management’s attention from other business concerns;
- risks related to completing any proposed acquisition or other significant transaction, including obtaining any required approvals of stockholders, governmental agencies or other parties, and potential risks to our business if we fail to complete any planned acquisition or other significant strategic transaction;
- litigation for activities of the acquired company, including claims from terminated employees, clients, former shareholders or other third parties;
- failure to identify all of the problems, liabilities or other shortcomings or challenges of an acquired company, technology, or solution, including issues related to intellectual property, solution quality or architecture, regulatory compliance practices, revenue recognition or other accounting practices, employee or client issues, or transaction or integration costs;
- in the case of foreign acquisitions, the need to integrate operations across different cultures and languages and to address the particular economic, currency, political and regulatory risks associated with specific countries; costs necessary to establish and maintain effective internal controls for acquired businesses;
- failure to successfully further develop the acquired technology in order to recoup our investment; and
- increased fixed costs.

If we are unable to successfully integrate any future business, product or technology we acquire, our business and results of operations may suffer.

In addition, a significant portion of the purchase price of companies we acquire may be allocated to acquired goodwill and other intangible assets, which must be assessed for impairment at least annually. If our acquisitions do not yield expected returns, we may be required to take charges to our operating results based on this impairment assessment process, which could adversely affect our results of operations.

Acquisitions could also result in dilutive issuances of equity securities or the incurrence of debt, which could adversely affect our operating results. For instance, in connection with our prior acquisitions, we issued shares of our common stock. We may consider divestitures of certain non-core businesses, products, technologies or other assets from time to time. We may not be successful in identifying buyers for any such assets or in negotiating the terms of any such sale. Any such sale could disrupt our business and adversely affect our results of operations.

Regulatory and Compliance Risks

Domestic and foreign government regulation and enforcement of data practices and data tracking technologies is expansive, not clearly defined and rapidly evolving. Such regulation could directly restrict portions of our business or indirectly affect our business by constraining our customers’ use of our platform or limiting the growth of our markets.

Federal, state, municipal and/or foreign governments and agencies have adopted and could in the future adopt, modify, apply or enforce laws, policies, and regulations covering user privacy, data security, technologies such as cookies that are used to collect, store and/or process data, the taxation of products and services, unfair and deceptive practices, and/or the collection, use, processing, transfer, storage and/or disclosure of data associated with a unique individual. The categories of data regulated under these laws vary widely and are often ill-defined and subject to new applications or interpretation by regulators. Our subscription services enable our customers to display digital advertisements to targeted population segments, as well as collect, manage and store data regarding the measurement and valuation of their digital advertising and marketing campaigns, which may include data that is directly or indirectly obtained or derived through the activities of online or mobile visitors. The uncertainty and inconsistency among these laws, coupled with a lack of guidance as to how these laws will be applied to current and emerging Internet and mobile analytics technologies, creates a risk that regulators, lawmakers or other third parties, such as potential plaintiffs, may assert claims, pursue investigations or audits, or engage in civil or criminal enforcement. These actions could limit the market for our subscription services or impose burdensome requirements on our services and/or customers’ use of our services, thereby rendering our business unprofitable.

The General Data Protection Regulation, or the GDPR, is applicable in all European Union member states and prescribes data protection requirements in the European Union and substantial fines for non-compliance. We make use of model contractual clauses approved by the European Commission in relation to the transfer of personal data from the European Union to the United States. The European Commission’s model contractual clauses are subject to changes and legal challenges in the European Union, however, and it is unclear whether these will continue serve as appropriate means for us to transfer personal data from the European Union to the

United States. Some features of our subscription services use cookies, which trigger the data protection requirements of certain foreign jurisdictions, such as the GDPR and the EU ePrivacy Directive. In addition, our services collect data about visitors' interactions with our advertiser clients that may be subject to regulation under current or future laws or regulations. If our privacy or data security measures fail to comply with these current or future laws and regulations in any of the jurisdictions in which we collect information, we may be subject to litigation, regulatory investigations, civil or criminal enforcement, audits or other liabilities in such jurisdictions, or our advertisers may terminate their relationships with us. In addition, foreign court judgments or regulatory actions could impact our ability to transfer, process and/or receive transnational data that is critical to our operations, including data relating to users, clients, or partners outside the United States. Such judgments or actions could affect the manner in which we provide our services or adversely affect our financial results if foreign clients and partners are not able to lawfully transfer data to us.

This area of the law is currently under intense government scrutiny and many governments, including the U.S. government, are considering a variety of proposed regulations that would restrict or impact the conditions under which data obtained from or through the activities of visitors could be collected, processed or stored. In addition, regulators such as the Federal Trade Commission and the California Attorney General are continually proposing new regulations and interpreting and applying existing regulations in new ways. For example, the California Consumer Privacy Act, or the CCPA, took effect January 1, 2020, which provides new data privacy rights for consumers and new disclosure and operational requirements for companies. The CCPA gives California residents expanded rights to access and delete their personal information, opt out of certain personal information sharing and receive detailed information about how their personal information is used. The CCPA provides for civil penalties for violations, as well as a private right of action for data breaches that is expected to increase data breach litigation. In connection with the United Kingdom leaving the European Union, new or amended data privacy laws may be adopted in the United Kingdom. The burdens imposed by the GDPR and CCPA, and changes to existing laws or new laws regulating the solicitation, collection or processing of personal and consumer information, truth-in-advertising and consumer protection could affect our customers' utilization of digital advertising and marketing, potentially reducing demand for our subscription services, or impose restrictions that make it more difficult or expensive for us to provide our services.

If legislation dampens the growth in web and mobile usage or access to the Internet, our results of operations could be harmed.

Legislation enacted in the future could dampen the growth in web and mobile usage and decrease its acceptance as a medium of communications and commerce or result in increased adoption of new modes of communication and commerce that may not be serviced by our products. In addition, government agencies or private organizations may begin to impose taxes, fees or other charges for accessing the Internet, which could result in slower growth or a decrease in eCommerce, use of social media and/or use of mobile devices. Any of these outcomes could cause demand for our platform to decrease, our costs to increase, and our results of operations and financial condition to be harmed.

If our customers fail to abide by applicable privacy laws or to provide adequate notice and/or obtain consent from end users, we could be subject to litigation or enforcement action or reduced demand for our services. Industry self-regulatory standards may be implemented in the future that could affect demand for our platform and our ability to access data we use to provide our platform.

Our customers utilize our services to support and measure their direct interactions with visitors, and although we provide notice and choice mechanisms on our websites for our subscription services, we also must rely on our customers to implement and administer notice and choice mechanisms required under applicable laws. If we or our customers fail to abide by these laws, it could result in litigation or regulatory or enforcement action against our customers or against us directly.

In addition, self-regulatory organizations (such as the Digital Advertising Network or Network Advertising Initiative) to which our customers, partners and suppliers may belong, may impose opt-in or opt-out requirements on our customers, which may in the future require our customers to provide various mechanisms for users to opt-in or opt-out of the collection of any data, including anonymous data, with respect to such users' web or mobile activities. The online and/or mobile industries may adopt technical or industry standards, or federal, state, local or foreign laws may be enacted that allow users to opt-in or opt-out of data that is necessary to our business. In particular, some government regulators and standard-setting organizations have suggested a "Do Not Track" standard that allows users to express a preference, independent of cookie settings in their browser, not to have website browsing recorded. All the major Internet browsers have implemented some version of a "Do Not Track" setting. Furthermore, publishers may implement alternative tracking technologies that make it more difficult to access the data necessary to our business or make it more difficult for us to compete with the publisher's own advertising management solutions. If any of these events were to occur in the future, it could have a material effect on our ability to provide services and for our customers to collect the data that is necessary to use our services.

Public scrutiny of Internet privacy and security issues may result in increased regulation and different industry standards, which could deter or prevent us from providing our current services to our customers, thereby harming our business.

The regulatory framework for privacy and security issues worldwide is currently in flux and is likely to remain so for the foreseeable future. Practices regarding the collection, processing, use, storage, transmission, disclosure, and security of personal information by companies operating over the internet have recently come under increased public scrutiny. State, federal and foreign lawmakers and regulatory authorities have increased their attention on the collection and use of consumer data. In addition, many jurisdictions in which we operate have or are developing laws that protect the privacy and security of sensitive and personal information, including, but not limited to, those described under the heading "Business—Government Regulations."

The various privacy and cybersecurity laws and regulations with which we must comply are complex and evolving. Compliance with such laws and regulations require we expend significant resources, and we cannot guarantee that we will be able to successfully comply with all such privacy and cybersecurity laws and regulations, especially where they do or may in the future conflict with one another, nor can we predict the extent to which such new and evolving regulatory and legal requirements will impact our business strategies and the cost or availability of previously useful data, increase our potential liability, increase our compliance costs, require changes in business practices and policies, or otherwise adversely affect our business. Furthermore, any data breach or a failure by us to comply with the cybersecurity and privacy regulations and laws which we are subject to could result in penalties and fines, or in civil litigation against us, which could have a material adverse effect on our business, including on how we use personal data, on our financial condition, and our operating results.

If we do not comply with applicable privacy guidelines and other applicable laws and regulations under which we are regulated, if there are changes to the guidelines, laws, or regulations, or their interpretation, or if new regulations are enacted that are inconsistent with our current business practices, our business could be harmed. We may be required to change our business practices, services, or privacy policy, among other changes. Changes like these could increase our operating costs and potentially make it more difficult for customers to use our services, resulting in less revenue or slower growth.

Our revenues may be adversely affected if we are required to charge sales taxes in additional jurisdictions or other taxes for our solutions.

We collect or have imposed upon us sales or other taxes related to the solutions we sell in certain states and other jurisdictions. An increasing number of states have considered or adopted laws that attempt to impose tax collection obligations on out-of-state companies. Additionally, the U.S. Supreme Court recently ruled in *South Dakota v. Wayfair, Inc. et al*, or Wayfair, that online sellers can be required to collect sales and use tax despite not having a physical presence in the buyer's state. In response to Wayfair, or otherwise, states or local governments may adopt, or begin to enforce, laws requiring us to calculate, collect, and remit taxes on sales in their jurisdictions. A successful assertion by any state, country or other jurisdiction in which we do business that we should be collecting sales or other taxes on the sale of our products and services could, among other things, create significant administrative burdens for us, result in substantial tax liabilities for past sales, discourage clients from purchasing solutions from us or otherwise substantially harm our business and results of operations.

If we experience material weaknesses or deficiencies in the future or otherwise fail to maintain an effective system of internal controls, we may not be able to accurately or timely report our financial condition or results of operations, which may adversely affect investor confidence in us and, as a result, the value of our common stock.

In the past, we have identified a material weakness in our internal control over financial reporting. While we have remediated such material weakness, there can be no assurance that we will not identify additional control deficiencies or material weaknesses in the future. If we identify material weaknesses or deficiencies in the future, if we are unable to comply with the requirements of Section 404(b) of the Sarbanes-Oxley Act, or Section 404, in a timely manner, if we are unable to assert that our internal control over financial reporting is effective or if our independent registered public accounting firm is unable to express an opinion as to the effectiveness of our internal control over financial reporting, investors may lose confidence in the accuracy and completeness of our financial reports and the market price of our common stock could be negatively affected, and we could become subject to investigations by the stock exchange on which our securities are listed, the SEC, or other regulatory authorities, which could require additional financial and management resources.

We are a smaller reporting company and we cannot be certain if the reduced disclosure requirements applicable to smaller reporting companies will make our common stock less attractive to investors.

We are a smaller reporting company and as a result we can provide simplified executive compensation disclosures in our filings; are exempt from the provisions of Section 404 requiring that independent registered public accounting firms provide an attestation report on the effectiveness of internal control over financial reporting; and we have certain other decreased disclosure obligations in their SEC filings, including, among other things, only being required to provide two years of audited financial statements in annual reports. Decreased disclosures in our SEC filings due to our status as a smaller reporting company may make it harder for investors to analyze our results of operations and financial prospects. We cannot predict if investors will find our common stock less attractive because we will rely on the exemptions available to smaller reporting companies. If some investors find our common stock less attractive as a result, there may be a less active trading market for our common stock and our stock price may be more volatile.

We may not be able to utilize a significant portion of our net operating loss or research tax credit carryforwards, which could adversely affect our profitability.

As of December 31, 2022, we had federal and state net operating loss carryforwards due to prior period losses, which if not utilized will begin to expire in 2027 for federal purposes and began to expire in 2022 for state purposes. Our federal net operating loss generated in 2018 and after can be carried forward indefinitely. We also have federal research tax credit carryforwards, which if not utilized will begin to expire in 2026. These net operating loss and research tax credit carryforwards could expire unused and be unavailable to offset future income tax liabilities, which could adversely affect our profitability.

In addition, under Section 382 of the Internal Revenue Code of 1986, as amended, or the Code, our ability to utilize net operating loss carryforwards or other tax attributes, such as research tax credits, in any taxable year may be limited if we experience an "ownership change." A Section 382 "ownership change" generally occurs if one or more stockholders or groups of stockholders who own at least 5% of our stock increase their ownership by more than 50 percentage points over their lowest ownership percentage within a rolling three-year period. Similar rules may apply under state tax laws.

Future issuances of our stock could cause an "ownership change." It is possible that any future ownership change could have a material effect on the use of our net operating loss carryforwards or other tax attributes, which could adversely affect our profitability.

Risks Related to the Ownership of Our Common Stock

If we cannot meet the continued listing requirements of The Nasdaq Global Market, or Nasdaq, Nasdaq Global Market may de-list our common stock, which would have an adverse effect on the trading volume, liquidity and market price of our common stock.

Our common stock is listed on The Nasdaq Global Market, or Nasdaq. Although we currently meet Nasdaq's listing standards, which generally require that we meet certain requirements relating to stockholders' equity, market capitalization, stock price, the aggregate market value of publicly held shares, and distribution requirements, we cannot assure you that we will be able to continue to meet Nasdaq's listing requirements. One of Nasdaq's listing requirements is that our shares maintain a minimum bid price of at least $1.00. If a company's shares trade for 30 consecutive business days below the $1.00 minimum closing bid price requirement, Nasdaq will likely send a deficiency notice to the company, advising that it has been afforded a "compliance period" of 180 calendar days to regain compliance with the applicable requirements. As of February 17, 2023, the closing price of our common stock on Nasdaq was $1.20. The closing price of our common stock on Nasdaq was below $1.00 from December 19, 2022 until December 29, 2022. If we fail to satisfy Nasdaq's continued listing requirements, Nasdaq may take steps to de-list our common stock. If Nasdaq delists our securities for trading on the Nasdaq, we could face significant adverse consequences, including:

- a limited availability of market quotations for our common stock;
- reduced liquidity with respect to our common stock;
- reduced trading volume in and market price of our common stock;
- a limited amount of news and analyst coverage for our company; and
- a decreased ability to issue additional securities or obtain additional financing in the future.

Such a de-listing would likely have an adverse effect on the price of our common stock and would impair your ability to sell or purchase our common stock when you wish to do so. In the event of a de-listing, we may take actions to restore our compliance with Nasdaq's listing requirements, but we can provide no assurance that any such action taken by us would allow our common stock to become listed again, stabilize the market price or improve the liquidity or trading volume of our common stock, prevent our common capitalization and stockholder's equity from dropping below the Nasdaq minimum requirements, or prevent other future non-compliance with Nasdaq's continued listing requirements.

The market price of our common stock has been highly volatile and may continue to be subject to wide fluctuations due to circumstances beyond our control, which could result in stockholders incurring losses on their investments and subject us to litigation.

Since our initial public offering, the closing sales price of our common stock on the New York Stock Exchange (from March 22, 2013 through June 19, 2018) and The Nasdaq Global Market (from June 20, 2018 to the date of this filing) has been volatile. From January 1, 2022 through December 31, 2022, the closing sales price of our common stock on The Nasdaq Global Market ranged from $0.93 to $4.53 per share. From January 1, 2023 through February 17, 2023, the closing sales price of our common stock on The Nasdaq Global Market ranged from $1.01 to $1.33 per share. Factors that may affect the market price of our common stock include:

- variations in, or forward-looking guidance regarding, our revenues, gross margin, operating results, free cash flow, loss per share, revenue retention rates, annualized advertising spend on our platform, adjusted EBITDA and how these results compare to analyst and investor expectations;
- announcements of technological innovations, new products or services, strategic alliances, acquisitions or significant agreements or other developments by us or related to our competitors, including any announcements of regulatory actions, lawsuits or other developments, such as the pending U.S. and state government lawsuits against Google and Meta;
- the timing, volume and pricing of any sales of shares by us under our at-the-market offering program or otherwise;
- disruptions in our cloud-based operations or services or disruptions of other prominent cloud-based operations or services;
- disruptions to financial markets and market conditions as a result of the inflation, interest rate fluctuations, potential hostilities in international markets, the COVID-19 pandemic or other factors;
- the economy as a whole, market conditions in our industry, and in the industries of our customers, and conditions in the U.S. and international stock trading markets; and
- any other factors discussed herein.

Because our stock price has been volatile, investing in our common stock is risky.

In addition, the stock market in general has experienced substantial price and volume volatility that is often seemingly unrelated to the operating results of any particular companies. In particular, the stock market experienced heightened volatility in connection with the COVID-19 pandemic, and stock valuations generally decreased during 2022. If the market for technology stocks, especially software and cloud computing-related stocks, or the stock market in general experiences uneven investor confidence, the market price of our common stock could decline for reasons unrelated to our business, operating results or financial condition. The market price for our stock might also decline in reaction to events that affect other companies within, or outside, our industry, even if these events do not directly affect us. Some companies that have experienced volatility in the trading price of their stock have been subject of securities litigation. If we are the subject of such litigation, it could result in substantial costs and a diversion of management’s attention and resources.

We do not intend to pay dividends for the foreseeable future.

We have never declared nor paid cash dividends on our capital stock. We currently intend to retain any future earnings to finance the operation and expansion of our business, and we do not expect to declare or pay any dividends in the foreseeable future. Consequently, stockholders must rely on sales of their common stock after price appreciation, which may never occur, as the only way to realize any future gains on their investment.

If we sell additional shares of our common stock, or securities convertible into our common stock in the future, the percentage ownership of our stockholders will be diluted.

Sales of a substantial number of shares of our common stock in the public market, or the perception that these sales might occur could depress the market price of our common stock and may make it more difficult for you to sell your common stock at a time and price that you deem appropriate. We are unable to predict the effect that sales may have on the prevailing market price of our common stock. Any sales of securities by existing stockholders or by us could adversely affect the trading price of our common stock.

On March 14, 2019, we filed a shelf registration statement on Form S-3 for the potential offering, issuance and sale by us of up to $50.0 million of our common stock, preferred stock, debt securities, warrants to purchase our common stock, preferred stock and debt securities, subscription rights to purchase our common stock, preferred stock and debt securities, and units consisting of all or some of these securities.

During the year ended December 31, 2021, we sold 5.5 million shares of our common stock under equity distribution agreements with JMP Securities LLC, or JMP Securities, and received proceeds of approximately $41.7 million, net of offering costs of $1.5 million, at a weighted average sales price of $7.85 per share. The 5.5 million shares of our common stock that we issued under equity distribution agreements during 2021 increased the number of outstanding shares of our common stock by approximately 57%, resulting in dilution to the percentage ownership of our previously existing stockholders.

Additionally, during the year ended December 31, 2022, we sold 1.1 million shares of our common stock under a new equity distribution agreement with JMP Securities for the sale of up to $50.0 million of new securities in an "at-the-market" common stock offering facility and received proceeds of approximately $1.3 million, net of offering costs of $0.1 million, at a weighted average sales price of $1.33 per share. In accordance with the SEC's Instruction I.B.6 of Registration Statement on Form S-3, we adjusted the maximum aggregate market value of the securities that may be sold pursuant to this current "at-the-market" securities offering facility from $50.0 million to approximately $22.8 million based on our estimated market capitalization on the date we filed our Annual Report on Form 10-K for the year ended December 31, 2021 until such time, if at all, when we are required to make any further adjustments to the maximum aggregate offering size or we become eligible to conduct such offering in accordance with Instruction I.B.1 of the Registration Statement on Form S-3.

Delaware law and provisions in our restated certificate of incorporation and restated bylaws could make a merger, tender offer, or proxy contest difficult, and limit our stockholders' ability to obtain a favorable judicial forum for disputes with us or our directors, officers or employees, thereby depressing the trading price of our common stock.

Our status as a Delaware corporation and the anti-takeover provisions of the Delaware General Corporation Law may discourage, delay, or prevent a change in control by prohibiting us from engaging in a business combination with an interested stockholder for a period of three years after the person becomes an interested stockholder, even if a change of control would be beneficial to our existing stockholders. In addition, our restated certificate of incorporation and restated bylaws contain provisions that may make the acquisition of our Company more difficult, including the following:

- our Board is classified into three classes of directors with staggered three-year terms and directors can only be removed from office for cause;
- only our Board has the right to fill a vacancy created by the expansion of our Board or the resignation, death or removal of a director, which prevents stockholders from being able to fill vacancies on our Board;
- only our chairman of the Board, our lead independent director, our chief executive officer, our president, or a majority of our Board is authorized to call a special meeting of stockholders;
- certain litigation against us can only be brought in Delaware;
- our restated certificate of incorporation authorizes undesignated preferred stock, the terms of which may be established, and shares of which may be issued, without the approval of the holders of common stock; and
- advance notice procedures apply for stockholders to nominate candidates for election as directors or to bring matters before an annual meeting of stockholders.

In addition, our restated certificate of incorporation provides that the Court of Chancery of the State of Delaware will be the exclusive forum for: (1) any derivative action or proceeding brought on our behalf; (2) any action asserting a breach of fiduciary duty; (3) any action asserting a claim against us arising pursuant to the Delaware General Corporation Law, our restated certificate of incorporation, or our restated bylaws; (4) any action to interpret, apply, enforce or determine the validity of our restated certificate of incorporation or our restated bylaws, or (5) any action asserting a claim against us that is governed by the internal affairs doctrine. This choice of forum provision may limit a stockholder's ability to bring a claim in a judicial forum that it finds favorable for disputes with us or any of our directors, officers, or other employees, which may discourage lawsuits with respect to such claims. Alternatively, if a court were to find the choice of forum provision contained in our restated certificate of incorporation to be inapplicable or unenforceable in an action, we may incur additional costs associated with resolving such action in other jurisdictions, which could harm our business, operating results, and financial condition.

General Risk Factor

Our reported financial results may be adversely affected by changes in accounting principles generally accepted in the United States.

Generally accepted accounting principles in the United States are subject to interpretation by the Financial Accounting Standards Board, the SEC, and various bodies formed to promulgate and interpret appropriate accounting principles. A change in these principles or interpretations could have a significant effect on our reported financial results, and could affect the reporting of transactions completed before the announcement of a change.

ITEM 1B. UNRESOLVED STAFF COMMENTS

None.

ITEM 2. PROPERTIES

Our corporate headquarters are located in San Francisco, California, where we lease office space under a short-term operating lease. We also lease office space under short-term leases in China and various European countries, which we use principally for sales and marketing, research and development, administration, customer support and to deliver professional services locally. We operate a data center at a third-party facility located in the United States.

We believe our facilities are in good condition and adequate for our current needs and for the foreseeable future. See Note 11 to the accompanying consolidated financial statements and "Management's Discussion and Analysis of Financial Condition and Results of Operations – Contractual Obligations and Commitments" for information regarding our lease obligations.

ITEM 3. LEGAL PROCEEDINGS

From time to time, we may become involved in legal proceedings arising in the ordinary course of our business. We are not presently a party to any legal proceedings that, if determined adversely to us, would individually or taken together have a material adverse effect on our business, operating results, financial condition or cash flows.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

PART II

ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

Market Information for Our Common Stock

Our common stock trades on The Nasdaq Global Market, or Nasdaq, under the symbol "MRIN."

Holders of Our Common Stock

As of February 17, 2023, there were 41 stockholders of record. The actual number of stockholders is greater than the number of record holders, and includes stockholders who are beneficial owners, but whose shares are held in street name by brokers and other nominees. The number of holders of record also does not include stockholders whose shares may be held in trust by other entities.

Dividend Policy

We currently intend to retain any future earnings and do not expect to pay any cash dividends on our common stock for the foreseeable future. Any determination to pay dividends in the future will be at the discretion of our board of directors and will be dependent on a number of factors, including our earnings, capital requirements and overall financial conditions.

Securities Authorized for Issuance under Equity Compensation Plans

The information required by this item will be set forth under the heading "Equity Compensation Plan Information" in the definitive Proxy Statement for our 2023 Annual Meeting of Stockholders (the "Proxy Statement") which is incorporated into this report by reference.

Unregistered Sales of Equity Securities

We made no sales of unregistered securities during the quarter ended December 31, 2022.

Recent Issuer Purchases of Equity Securities

We made no purchases of equity securities during the quarter ended December 31, 2022.

ITEM 6. [Reserved]

Not applicable.

ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion and analysis of our financial condition, results of operations and cash flows should be read in conjunction with the consolidated financial statements and related notes thereto included elsewhere in this Annual Report on Form 10-K for the fiscal year ended December 31, 2022. This discussion contains forward-looking statements that involve risks and uncertainties. Our actual results could differ materially from those forward-looking statements below. Factors that could cause or contribute to those differences include, but are not limited to, those identified below and those discussed in the section entitled "Risk Factors" included elsewhere in this Annual Report on Form 10-K. This Annual Report on Form 10-K contains "forward-looking statements" within the meaning of Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act. These statements are often identified by the use of words such as "believe," "may," "potentially," "will," "estimate," "continue," "anticipate," "intend," "could," "should," "would," "project," "plan," "predict," "expect," "seek" and similar expressions or variations. Such forward-looking statements are subject to risks, uncertainties and other factors that could cause actual results and the timing of certain events to differ materially from future results expressed or implied by such forward-looking statements. Factors that could cause or contribute to such differences include, but are not limited to, those identified herein, and those discussed in the section titled "Risk Factors", set forth in Part I, Item 1A of this Annual Report on Form 10-K. Except as required by law, we disclaim any obligation to update any forward-looking statements to reflect events or circumstances after the date of such statements. References to "2022" and "2021" refer to the year ended December 31, 2022 and the year ended December 31, 2021, respectively.

Overview

We are a leading provider of digital marketing solutions for search, social, and eCommerce advertising channels, offered as a unified software-as-a-service, or SaaS, advertising management platform for performance-driven advertisers and agencies. Our platform is an analytics, workflow and optimization solution for marketing professionals, enabling them to maximize the performance of their digital advertising spend. We market and sell our solutions to advertisers directly and through leading advertising agencies, and our customers collectively manage billions of dollars in advertising spend on our platform globally across a wide range of industries. We believe this makes us one of the largest providers of independent advertising cloud solutions. Our software solution is designed to help our customers:

- measure the effectiveness of their advertising campaigns through our proprietary reporting and analytics capabilities;
- manage and execute campaigns through our intuitive user interface and underlying technology that streamlines and automates key functions, such as advertisement creation and bidding, across multiple publishers and channels; and
- optimize campaigns across multiple publishers and channels based on market and business data to achieve desired revenue outcomes using our predictive bid management and budget optimization technology.

MarinOne brings search, social and eCommerce advertising into a single platform that helps advertisers maximize a customer journey that spans Amazon, Google, Meta, Twitter and Walmart by combining the power of Marin Search and Marin Social with channels such as LinkedIn, TikTok, Apple Search Ads, Instacart, Criteo and YouTube. Additionally, we have integrations with dozens of leading web analytics and advertisement-serving solutions and key enterprise applications, enabling our customers to more accurately measure the return on investment of their marketing programs.

Our software platform serves as an integration point for advertising performance, sales and revenue data, allowing advertisers to connect the dots between advertising spend and revenue outcomes. Through an intuitive interface, we enable our customers to simultaneously run large-scale digital advertising campaigns across multiple publishers and channels, making it easy for marketers to create, publish, modify and optimize campaigns.

Our predictive bid management and optimization technology also allows advertisers to forecast outcomes and optimize campaigns across multiple publishers and channels to achieve their business goals. Our optimization technology can help advertisers increase advertisement spend on those campaigns, publishers and channels that are performing well while reducing investment in those that are not. This category of solutions, which we refer to as cross-channel bid and campaign optimization, helps businesses intelligently and efficiently measure, manage, and optimize their digital advertising spend to achieve desired business results.

The COVID-19 pandemic has had an adverse impact on many of our customers, their businesses and their spending on digital advertising, which has had an adverse impact on our historical results of operations and may continue to affect our future results of operations. At this time, the extent to which any lingering or renewed effects of the COVID-19 pandemic may impact our financial condition or results of operations is uncertain. Additionally, general macroeconomic conditions such as inflation or the extent and duration of any recession may have an impact on our financial condition or results of operations.

Since the start of the COVID-19 pandemic in March 2020, most of our employees have been working remotely rather than from our offices. In addition, the lease for our largest office, in San Francisco, California, expired in July 2022. As a result of these developments, we have transitioned to a more hybrid working environment with a larger number of employees dispersed remotely. We expect that most of our employees will work remotely for most of the time for the foreseeable future.

Under the provisions of the extension of the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act") passed by the United States Congress and signed by the President, we were eligible for a refundable employee retention credit subject to certain criteria. We recognized employee retention credits of $1.6 million during the year ended December 31, 2021, which were recorded in cost of revenues and operating expenses.

Components of Results of Operations

Revenues, Net

We generate revenues principally from subscription contracts under which we provide advertisers with access to our search, social and eCommerce advertising management platform, either directly or through the advertiser's relationship with an agency with whom we have a contract. Our subscription contracts are generally one year or less in length. Under subscription contracts with most of our direct advertisers and some independent agencies, we generally charge fees based on the amount of advertising spend that these customers manage through our platform or a contractual minimum monthly platform fee, whichever is greater. Certain of these customers are charged only a fixed monthly platform fee. Most of our subscription contracts with our network agency customers do not include a committed minimum monthly platform fee, and we charge fees based upon the amount of advertising spend that these customers manage through our platform. Due to the nature of the platform and the services performed under the subscription agreements, revenues are typically recognized in the amount billable to the advertiser.

Our long-term strategic agreements have historically included multiple-year terms and are invoiced quarterly. Our largest agreement with Google was initially entered into in December 2018 with an effective date of October 1, 2018 (the "Original Google Revenue Share Agreement") and included both a fixed baseline amount and a variable portion based on a percentage of relevant advertising search spend above the baseline threshold that runs through our technology platform. The Original Google Revenue Share Agreement expired on September 30, 2021. In September 2021, we entered into a new revenue share agreement with Google, with an effective date of October 1, 2021 (the "New Google Revenue Share Agreement") for a three-year term continuing until September 30, 2024. Under this New Google Revenue Share Agreement, we are eligible to receive fixed and variable revenue share payments based on a percentage of the search advertising spend that is managed through our platform. Our other long-term strategic agreements are generally variable in nature, based on a percentage of relevant search advertising spend that runs through our technology platform.

The majority of our revenues are derived from advertisers based in the United States. Advertisers from outside of the United States represented 21% and 23% of total revenues for 2022 and 2021, respectively. The Original Google Revenue Share Agreement and the New Google Revenue Share Agreement accounted for approximately 36% of our revenues in 2022 and approximately 35% in 2021. Revenue for the year ended December 31, 2021 includes revenue from the Original Google Revenue Share Agreement and the New Google Revenue Share Agreement.

Refer to Note 3 of the accompanying consolidated financial statements for further discussion of our revenue recognition considerations.

Cost of Revenues

Cost of revenues primarily includes personnel costs, consisting of salaries, benefits, bonuses and stock-based compensation expense for employees associated with our cloud infrastructure and global services for implementation and ongoing customer service. Other costs of revenues include fees paid to contractors who supplement our support and data center personnel, expenses related to third-party data centers, depreciation of data center equipment, amortization of internally developed software and allocated overhead.

Incremental cost of revenues associated with our long-term strategic agreements, including our largest agreement with Google, are generally not significant.

Sales and Marketing

Sales and marketing expenses consist primarily of personnel costs, including salaries, benefits, stock-based compensation expense and bonuses, as well as sales commissions and other costs including travel and entertainment, marketing and promotional events, lead generation activities, public relations, marketing activities, professional fees, amortization of intangible assets and allocated overhead. All of these costs are expensed as incurred, except sales commissions and the related payroll taxes, which are capitalized and amortized over the expected period of benefit in accordance with the relevant authoritative accounting guidance (refer to Note 3 of the accompanying consolidated financial statements). Our commission plans provide that commission payments to our sales representatives are paid based on the key components of the applicable customer contract, including the minimum or fixed monthly platform fee during the initial contract term.

Research and Development

Research and development expenses consist primarily of personnel costs for our product development and engineering employees and executives, including salaries, benefits, stock-based compensation expense and bonuses. Also included are non-personnel costs such as professional fees payable to third-party development resources and allocated overhead.

Our research and development efforts are focused on enhancing our software architecture, adding new features and functionality to our platform and improving the efficiency with which we deliver these services to our customers, including the continued development of MarinOne.

General and Administrative

General and administrative expenses consist primarily of personnel costs, including salaries, benefits, stock-based compensation expense and bonuses for our administrative, legal, human resources, finance and accounting employees and executives. Also included are non-personnel costs, such as audit fees, tax services and legal fees, as well as professional fees, insurance and other corporate expenses, including allocated overhead.

Other Income, Net

Other income, net, primarily consists of sublease income and foreign currency transaction gains and losses, as well as interest income earned on our cash equivalents.

Income Tax Expense, Net

The income tax expense, net consists of federal, state and foreign income taxes. Due to recent losses, we maintain a valuation allowance against our U.S. deferred tax assets as of December 31, 2022. We consider all available evidence, both positive and negative, in assessing the extent to which a valuation allowance should be applied against our deferred tax assets.

Results of Operations

The following table is a summary of our consolidated statements of operations for the specified periods and results of operations as a percentage of revenues for those periods. The period-to-period comparisons of results are not necessarily indicative of results for future periods. Percentage of revenues figures are rounded and therefore may not subtotal exactly.

A discussion regarding our consolidated statements of operations and results of operations as a percentage of revenue for 2022 compared to 2021 is presented below. A discussion regarding our financial condition and results of operations for 2021 compared to 2020 can be found under Item 7 in our Annual Report on Form 10-K for the fiscal year ended December 31, 2021, filed with the SEC on February 24, 2022, which is available free of charge on the SEC's website at www.sec.gov.

	Years Ended December 31,			
	2022		2021	
	Amount	% of Revenue	Amount	% of Revenue
	(dollars in thousands)			
Revenues, net	$ 20,019	100 %	$ 24,420	100 %
Cost of revenues (1)	12,795	64	12,885	53
Gross profit	7,224	36	11,535	47
Operating expenses:				
Sales and marketing (1)	6,997	35	5,482	22
Research and development (1)	11,832	59	10,788	44
General and administrative (1)	10,396	52	9,327	38
Total operating expenses	29,225	146	25,597	105
Loss from operations	(22,001)	(110)	(14,062)	(58)
Other income, net (2)	4,079	20	984	4
Loss before benefit from income taxes	(17,922)	(90)	(13,078)	(54)
Income tax expense (benefit), net	305	1	(134)	(1)
Net loss	$ (18,227)	(91) %	$ (12,944)	(53) %

(1) Stock-based compensation expense included in the consolidated statements of operations data above was as follows:

	Years Ended December 31,	
	2022	2021
	(in thousands)	
Cost of revenues	$ 481	$ 291
Sales and marketing	596	408
Research and development	996	594
General and administrative	1,482	728
	$ 3,555	$ 2,021

(2) Included in other income, net in 2022 was a gain of $3.1 million from Paycheck Protection Program ("PPP") loan forgiveness recognized during the period.

The following table sets forth our consolidated revenues by geographic area, as well as the related percentages of total revenues, for the specified periods.

	Years Ended December 31,			
	2022		2021	
	Amount	% of Revenue	Amount	% of Revenue
	(dollars in thousands)			
Revenues, net by geography				
United States of America	$ 15,867	79 %	$ 18,817	77 %
United Kingdom	2,272	11	2,851	12
Other	1,880	10	2,752	11
Total revenues, net	$ 20,019	100 %	$ 24,420	100 %

Comparison of the Years Ended December 31, 2022 and 2021

Revenues, Net

	Years Ended December 31,		Change	
	2022	2021	$	%
		(dollars in thousands)		
Revenues, net	$ 20,019	$ 24,420	$ (4,401)	(18) %

Revenues, net in 2022 decreased by $4.4 million, or 18%, as compared to 2021. During 2022, we experienced ongoing customer turnover that was only partially offset by new customer bookings as well as lower revenue under our New Google Revenue Share Agreement. Revenues, net in 2022 and 2021 are inclusive of $7.2 million and $8.6 million, respectively, from the Google Revenue Share Agreements, as described in Note 3 to the consolidated financial statements.

Revenues, net from our customers located in the United States represented 79% and 77% of total revenues, net for 2022 and 2021, respectively. The Google Revenue Share Agreement accounted for 36% and 35% of total revenues, net for 2022 and 2021, respectively.

Cost of Revenues and Gross Margin

	Years Ended December 31,		Change	
	2022	2021	$	%
		(dollars in thousands)		
Cost of revenues	$ 12,795	$ 12,885	$ (90)	(1) %
Gross profit	7,224	11,535	(4,311)	(37)
Gross margin	36 %	47 %		

Cost of revenues in 2022 decreased by $0.1 million, or 1%, as compared to 2021. The decrease was primarily driven by a decrease in allocated facilities and information technology cost of $0.7 million, lower amortization of internally developed software costs of $0.5 million and a decrease of $0.4 million in hosting costs in 2022 due to a decline in usage of our hosting platform. These decreases were partially offset by a $1.5 million increase in compensation and benefits expense, including stock-based compensation expense, resulting from an increase in the number of full-time personnel and the absence of the benefits in 2022 of the CARES Act employee retention credits that we realized in 2021.

Our gross margin decreased to 36% during 2022, as compared to 47% during 2021. This was primarily due to the lower revenue in 2022, including the lower revenue under the New Google Revenue Share Agreement, as compared to 2021.

Sales and Marketing

	Years Ended December 31,		Change	
	2022	2021	$	%
		(dollars in thousands)		
Sales and marketing	$ 6,997	$ 5,482	$ 1,515	28 %
Percent of revenues, net	35 %	22 %		

Sales and marketing expenses in 2022 increased by $1.5 million, or 28%, as compared to 2021. The increase was primarily due to higher personnel-related costs of $1.1 million due to higher global sales support and marketing headcount, higher stock-based compensation expense and the absence of the benefits in 2022 of the CARES Act employee retention credits that we realized in 2021. There was also an increase in marketing expense of $0.8 million due to investments in advertising and other marketing efforts.

Research and Development

	Years Ended December 31,		Change	
	2022	2021	$	%
		(dollars in thousands)		
Research and development	$ 11,832	$ 10,788	$ 1,044	10 %
Percent of revenues, net	59 %	44 %		

Research and development expenses in 2022 increased by $1.0 million, or 10%, as compared to 2021. The increase was primarily due to higher personnel-related costs of $1.9 million resulting from higher stock-based compensation expense, increased headcount and the absence of the benefit in 2022 of the CARES Act employee retention credits that we realized in 2021. The increase was also attributable to higher restructuring costs and professional fees of $0.4 million. These increases were partially offset by lower facilities and information technology costs of $0.9 million and higher capitalization of internally developed software costs of $0.3 million in 2022.

General and Administrative

	Years Ended December 31,		Change	
	2022	**2021**	**$**	**%**
		(dollars in thousands)		
General and administrative	$ 10,396	$ 9,327	$ 1,069	11 %
Percent of revenues, net	52 %	38 %		

General and administrative expenses in 2022 increased by $1.1 million, or 11%, as compared to 2021. This was primarily due to higher personnel costs of $1.1 million from higher stock-based compensation costs and the absence of the benefit in 2022 of the CARES Act employee retention credits realized in 2021.

Other Income, Net

	Years Ended December 31,		Change	
	2022	**2021**	**$**	**%**
		(dollars in thousands)		
Other income, net	$ 4,079	$ 984	$ 3,095	315 %

Other income, net, primarily consists of sublease income as well as foreign currency transaction gains and losses and interest income and expense. Additionally, 2022 included a gain of $3.1 million from PPP loan forgiveness recognized during the period. Also contributing to the increase was higher interest income of $0.4 million offset by lower sublease income of $0.5 million. Foreign currency transaction gains and losses and interest income and expense were not material in 2022 or 2021.

Income tax benefit, net

	Years Ended December 31,		Change	
	2022	**2021**	**$**	**%**
		(dollars in thousands)		
Income tax expense (benefit), net	$ 305	$ (134)	$ 439	(328) %

Income tax expense in 2022 totaled $0.3 million, as compared to a benefit from income taxes of $0.1 million in 2021. The primary reason for this change was the current foreign income tax provision which was driven by changes to the reserve for uncertain tax positions.

Quarterly Results of Operations

The following table sets forth our unaudited quarterly consolidated statements of operations data for each of the eight quarters in the period ended December 31, 2022. We have prepared the quarterly data on a basis consistent with our audited annual financial statements, including, in the opinion of management, all normal recurring adjustments necessary for the fair statement of the financial information contained in these statements. The historical results are not necessarily indicative of future results and should be read in conjunction with our consolidated financial statements and the related notes included elsewhere in this Annual Report on Form 10-K.

	Three Months Ended							
	December 31, 2022	September 30, 2022	June 30, 2022	March 31, 2022	December 31, 2021	September 30, 2021	June 30, 2021	March 31, 2021
	(in thousands)							
Revenues, net	$ 5,161	$ 4,977	$ 4,720	$ 5,161	$ 5,863	$ 6,155	$ 6,094	$ 6,308
Cost of revenues (1)	3,083	3,181	3,203	3,328	3,294	3,175	3,175	3,241
Gross profit	2,078	1,796	1,517	1,833	2,569	2,980	2,919	3,067
Operating expenses								
Sales and marketing (1)	1,962	1,660	1,588	1,787	1,702	1,266	1,268	1,246
Research and development (1)	2,901	3,034	2,980	2,917	3,045	2,677	2,667	2,399
General and administrative (1)	2,459	2,923	2,545	2,469	3,151	2,312	1,995	1,869
Total operating expenses	7,322	7,617	7,113	7,173	7,898	6,255	5,930	5,514
Loss from operations	(5,244)	(5,821)	(5,596)	(5,340)	(5,329)	(3,275)	(3,011)	(2,447)
Other income, net (2)	190	190	297	3,402	138	298	221	327
Loss before income taxes	(5,054)	(5,631)	(5,299)	(1,938)	(5,191)	(2,977)	(2,790)	(2,120)
Income tax provision (benefit)	64	105	75	61	(90)	153	(289)	92
Net loss	$ (5,118)	$ (5,736)	$ (5,374)	$ (1,999)	$ (5,101)	$ (3,130)	$ (2,501)	$ (2,212)
Net loss per share available to common stockholders, basic and diluted	$ (0.31)	$ (0.36)	$ (0.34)	$ (0.13)	$ (0.33)	$ (0.22)	$ (0.23)	$ (0.21)

(1) Stock-based compensation expense included in the consolidated statements of operations data above was as follows:

	Three Months Ended							
	December 31, 2022	September 30, 2022	June 30, 2022	March 31, 2022	December 31, 2021	September 30, 2021	June 30, 2021	March 31, 2021
	(in thousands)							
Cost of revenues	$ 119	$ 148	$ 90	$ 124	$ 107	$ 103	$ 46	$ 35
Sales and marketing	165	99	157	175	150	122	70	66
Research and development	256	303	213	224	204	159	133	98
General and administrative	403	405	340	334	287	248	130	63
Total stock-based compensation expense	$ 943	$ 955	$ 800	$ 857	$ 748	$ 632	$ 379	$ 262

(2) Included in other income, net in 2022 was a gain of $3.1 million from PPP loan forgiveness recognized during the period.

The following table sets forth our consolidated results of operations for the specified periods as a percentage of our revenues for those periods. Percentage of revenue figures are rounded and therefore may not subtotal exactly.

	Three Months Ended							
	December 31, 2022	September 30, 2022	June 30, 2022	March 31, 2022	December 31, 2021	September 30, 2021	June 30, 2021	March 31, 2021
	(as a % of revenues, net)							
Revenues, net	100 %	100 %	100 %	100 %	100 %	100 %	100 %	100 %
Cost of revenues	60	64	68	64	56	52	52	51
Gross profit	40	36	32	36	44	48	48	49
Operating expenses								
Sales and marketing	38	33	34	35	29	21	21	20
Research and development	56	61	63	57	52	43	44	38
General and administrative	48	59	54	48	54	38	33	30
Total operating expenses	142	153	151	139	135	102	97	87
Loss from operations	(102)	(117)	(119)	(103)	(91)	(53)	(49)	(39)
Other income, net	4	4	6	66	2	5	4	5
Loss before income taxes	(98)	(113)	(112)	(38)	(89)	(48)	(46)	(34)
Income tax provision (benefit)	1	2	2	1	(2)	2	(5)	1
Net loss	(99) %	(115) %	(114) %	(39) %	(87) %	(51) %	(41) %	(35) %

Liquidity and Capital Resources

Since our incorporation in March 2006, we have relied primarily on sales of our capital stock to fund our operating activities. From incorporation until our initial public offering ("IPO") we raised $105.7 million, net of related issuance costs, in funding through private placements of our preferred stock. In March and April 2013, we raised net proceeds of $109.3 million in our IPO. From March 2019 through December 2022, we raised total net proceeds of $52.1 million from at-the-market offering programs administered by JMP Securities, and in 2020 we received proceeds of $3.3 million from a loan through the PPP, of which $3.1 million was forgiven. From time to time, we have also utilized equipment lines and entered into finance lease arrangements to fund capital purchases. As of December 31, 2022, our principal source of liquidity was our cash and cash equivalents of $28.0 million. Our primary operating cash requirements include the payment of compensation and other employee-related expenses, as well as costs for our facilities and information technology infrastructure.

We maintain cash balances in our foreign subsidiaries. As of December 31, 2022, $0.8 million of our $28.0 million of cash and cash equivalents were held by our foreign subsidiaries. If funds held by our foreign subsidiaries were needed for our U.S. operations, we may be required to accrue U.S. tax liabilities associated with the repatriation of these funds. However, given the amount of our net operating loss carryovers in the United States, such repatriation will most likely not result in material U.S. cash tax payments within the next year. Additionally, we do not believe that foreign withholding taxes associated with repatriating these funds would be material.

On March 14, 2019, we filed a shelf registration statement on Form S-3 with the SEC, which was declared effective by the SEC on May 10, 2019, under which we could offer our common stock, preferred stock, debt securities, warrants, subscription rights and units having an aggregate offering price of up to $50.0 million. As part of the shelf registration statement, we entered into an equity distribution agreement with JMP Securities LLC under which we could offer and sell shares of our common stock having an aggregate offering price of up to $13.0 million through an at-the-market offering program administered by JMP Securities. JMP Securities was entitled to compensation of up to 5.0% of the gross proceeds from sales of our common stock pursuant to the equity distribution agreement. For the year ended December 31, 2020, we sold 2.7 million shares of our common stock under this equity distribution agreement, and received proceeds of $7.5 million, net of offering costs of $0.5 million, at a weighted average sales price of $2.92 per share. During February 2021 we sold an additional 1.2 million shares of our common stock under this equity distribution agreement and received proceeds of $3.0 million, net of offering costs of $0.2 million, at a weighted average sales price of $2.68 per share. After such sales, no additional amounts were available to be sold under this equity distribution agreement.

On July 15, 2021, we entered into a new equity distribution agreement with JMP Securities under which we could sell shares of our common stock up to an aggregate gross sales price of $40.0 million through a new at-the-market securities offering program. In July 2021, we sold 4.3 million shares of our common stock under this July 2021 equity distribution agreement and received proceeds of $38.8 million, net of offering costs of $1.2 million, at a weighted average sales price of $9.27 per share, which exhausted all securities available for sale under this July 2021 equity distribution agreement.

On August 3, 2021, we filed a new shelf registration statement on Form S-3 with the SEC, which was declared effective by the SEC on August 19, 2021 and provides that we may offer our common stock, preferred stock, debt securities, warrants, subscription rights and units having an aggregate offering price of up to $100.0 million. As part of this new 2021 registration statement, we entered into a third equity distribution agreement with JMP Securities and established a new $50.0 million "at-the-market" securities offering facility, pursuant to which we may be able to issue and sell shares of our common stock. During the year ended December 31, 2022, we sold 1.1 million shares of our common stock under this new equity distribution agreement and received proceeds of approximately $1.3 million, net of offering costs of $0.1 million, at a weighted average sales price of $1.33 per share. In accordance with the SEC's Instruction I.B.6 of Registration Statement on Form S-3, we are adjusting the maximum aggregate market value of the securities that may be sold pursuant to this current "at-the-market" securities offering facility from $50.0 million to approximately $22.8 million based on our estimated market capitalization on the date we file this Annual Report until such time when we are eligible to conduct such offering in accordance with Instruction I.B.1 of the Registration Statement on Form S-3.

In May 2020, we entered into an agreement with a lender for a loan in an aggregate principal amount of $3.3 million (the "Loan") pursuant to the PPP under the CARES Act. We received the Loan proceeds on May 12, 2020. An aggregate principal amount of $3.1 million of the Loan was forgiven in January 2022 and we repaid the remaining outstanding balance of $0.2 million in February 2022. See Note 7 to the accompanying consolidated financial statements for further discussion of this loan.

We have incurred significant losses in each fiscal year since our incorporation in 2006, and we expect to continue to incur losses and negative cash flows in the future.

Summary of Cash Flows

The following table sets forth a summary of our cash flows for the periods indicated:

	Years Ended December 31, 2022	2021
	(in thousands)	
Net cash used in operating activities	$ (18,137)	$ (7,942)
Net cash used in investing activities	(1,764)	(1,296)
Net cash provided by financing activities	740	41,479
Effect of foreign exchange rate changes on cash and cash equivalents and restricted cash	61	(4)
Net (decrease) increase in cash and cash equivalents and restricted cash	$ (19,100)	$ 32,237

Operating Activities

Cash used in operating activities is primarily influenced by the amount of cash we invest in personnel and infrastructure to support the operation of our business and the fluctuations in the number of advertisers using our platform. Cash used in operating activities has typically been affected by net losses and further increased by changes in our operating assets and liabilities, particularly in the areas of accounts receivable, prepaid expenses and other assets, accounts payable and accrued expenses and other current liabilities, adjusted for non-cash expense items such as depreciation, amortization, stock-based compensation expense and deferred income tax benefits.

Cash used in operating activities in 2022 of $18.1 million was primarily the result of a net loss of $18.2 million, which was partially offset by non-cash expenses of $2.9 million, primarily consisting of depreciation, forgiveness of the PPP loan, amortization, stock-based compensation expense, provision for bad debts and net changes in operating leases, and a $2.8 million net change in working capital items. These items consisted most notably of a decrease in accrued expenses and other liabilities (both current and non-current) of $2.8 million due to the timing of related disbursements, including the payment of employee bonuses on a quarterly rather than an annual basis, which began in 2022.

Cash used in operating activities in 2021 of $7.9 million was primarily the result of a net loss of $12.9 million, which was partially offset by non-cash expenses of $4.9 million, primarily consisting of depreciation, amortization, stock-based compensation expense, provision for bad debts and net changes in operating leases, and a $0.1 million net change in working capital items. These items consisted most notably of (1) a decrease in accounts receivable of $0.6 million due to the decrease in revenues and the timing of related collections and (2) a decrease in accounts payable and accrued expenses and other liabilities (both current and non-current) of $0.9 million due to the timing of related disbursements and lower accrued payroll-related costs driven by lower headcount.

Investing Activities

In 2022 and 2021, investing activities primarily consisted of $1.7 million and $1.3 million of capitalized internally developed software costs. Capital expenditures may vary from period-to-period due to the timing of our operational requirements and the development cycles of our internally-developed hosted software platform. We expect to continue to invest in the development of our software platform for the foreseeable future.

Financing Activities

Cash provided by financing activities in 2022 was $0.7 million. This primarily consisted of $1.3 million of net cash proceeds from the issuance of common shares pursuant to our equity distribution agreements with JMP Securities, partially offset by $0.4 million in employee taxes paid for withheld shares upon the settlement of equity awards and the $0.2 million repayment of the PPP loan.

Cash provided by financing activities in 2021 was $41.5 million. This primarily consisted of $41.9 million of net cash proceeds from the issuance of common shares pursuant to our equity distribution agreements with JMP Securities, partially offset by $0.4 million in employee taxes paid for withheld shares upon the settlement of equity awards.

Contractual Obligations and Commitments

Our principal commitment consists of our operating lease for space at a data center. Additionally, we have approximately $1.0 million of uncertain tax positions that have been recorded as liabilities as of December 31, 2022. It is uncertain as to if or when such amounts may be settled.

During the ordinary course of business, we include indemnification provisions within certain of our contracts. Pursuant to these arrangements, we may be obligated to indemnify, hold harmless and agree to reimburse the indemnified party for losses suffered or incurred by the indemnified party, generally parties with which we have commercial relations, in connection with certain intellectual property infringement claims by any third party with respect to our software. To date, there have not been any costs incurred in connection with such indemnification arrangements and therefore, there is no accrual for such amounts as of December 31, 2022.

Off-Balance Sheet Arrangements

During the periods presented, we did not have, nor do we currently have, any relationships with unconsolidated entities or financial partnerships, such as entities often referred to as structured finance or special purpose entities, which would have been established for the purpose of facilitating off-balance sheet arrangements or other contractually narrow or limited purposes. We are therefore not exposed to any financing, liquidity, market or credit risk that could arise if we had engaged in those types of relationships.

We have no obligations that meet the definition of an off-balance sheet arrangement as of December 31, 2022, other than operating leases as described in the Notes to the consolidated financial statements.

Critical Accounting Policies and Significant Judgments and Estimates

The discussion and analysis of our financial condition and results of operations is based upon our consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States. The preparation of these consolidated financial statements requires us to make estimates, assumptions, and judgments that can have a significant impact on the reported amounts of assets and liabilities, revenues and expenses, and related disclosure of contingent assets and liabilities at the date of the consolidated financial statements. These items are monitored and analyzed by us for changes in facts and circumstances, and material changes in these estimates could occur in the future.

Our estimates are based on historical experience and on various other assumptions that we believe to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities. If actual results or events differ materially from those contemplated by us in making these estimates, our reported financial condition and results of operations for future periods could be materially affected. See "Risk Factors" for certain matters that may affect these estimates or our future financial condition or results of operations. An accounting policy is deemed to be critical if it requires an accounting estimate to be made based on assumptions about matters that are uncertain at the time the estimate is made, if different estimates reasonably could have been used, or if the changes in estimate that are reasonably likely to occur could materially impact the financial statements.

Our significant accounting policies are described in Note 2 to the consolidated financial statements included in this Annual Report on Form 10-K, and we believe that the accounting policies discussed below involve the greatest degree of complexity and exercise of judgment by our management. The methods, estimates and judgments that we use in applying our accounting policies have a significant impact on our results of operations and, accordingly, we believe the policies described below are the most critical for understanding and evaluating our financial condition and results of operations.

Revenue Recognition

We generate revenues principally from subscriptions either directly with advertisers or with advertising agencies to our platform for the management of search, social and eCommerce advertising. Revenue is recognized when control of these advertising management services is transferred to our customers, in an amount that reflects the consideration we expect to be entitled to in exchange for those services.

Our subscription contracts provide advertisers with access to our advertising management platform. Advertisers do not have the right to take possession of the software supporting the services at any time. These contracts are generally one year or less in length. The subscription fee under most contracts consists of the greater of a minimum monthly platform fee or variable consideration based on the volume of advertising spend managed through our platform at the contractual percentage of spend.

Our subscription services comprise a single stand-ready performance obligation satisfied over time, as the advertiser simultaneously receives and consumes the benefit from our performance. This performance obligation constitutes a series of services that are substantially the same and provided over time using the same measure of progress. Revenues derived from these arrangements are recognized over time using an output method based upon the passage of time as this provides a faithful depiction of the pattern of transfer of control. Fixed minimum monthly platform fees are recognized ratably over the contract term as the single performance obligation is satisfied. Variable fees are allocated to the distinct month of the series in which they are earned because the terms of the variable payments relate specifically to the outcome from transferring the distinct time increment (month) of service and because such amounts reflect the fees to which we expect to be entitled for providing access to the advertising management platform for that period, consistent with the allocation objective of authoritative revenue recognition guidance.

We have also entered into long-term strategic agreements with certain leading search publishers. Under these strategic agreements, we receive consideration based on a percentage of the search advertising spend that our customers manage on our platform. These strategic agreements are generally billed on a quarterly basis and are either fixed or variable in nature, based on a percentage of relevant search advertising spend that runs through our technology platform.

We evaluate the total amount of variable revenue share payments expected to be earned by using the most likely method, as we believe this method represents the most appropriate estimate for this consideration, based on historical service trends, the individual contract considerations and our best judgment at the time. We include estimates of variable consideration in revenues only to the extent that it is probable that a significant reversal in the amount of cumulative revenue recognized will not occur when the uncertainty associated with the variable consideration is subsequently resolved. We expect that in the future, revenues from strategic agreements will continue to grow as a percentage of our total revenues, net.

Income Taxes

Significant assumptions, judgments and estimates are involved in determining our provision for (benefit from) income taxes, our deferred tax assets and liabilities, and any valuation allowance to be recorded against our deferred tax assets. Our judgments, assumptions and estimates relating to the current provision for income taxes include the geographic mix and amount of income (loss), our interpretation of current tax laws, and possible outcomes of current and future audits conducted by foreign and domestic tax authorities. Our judgments also include anticipating the tax positions we will record in the financial statements before preparing and filing the tax returns. Our estimates and assumptions may differ from the actual results as reflected in our income tax returns and we record the required adjustments when they are identified or resolved. These estimates may not be materially sensitive on an individual basis but could be material on an aggregate basis if they were to differ from current estimates. Changes in our business and tax laws or our interpretation of those, and developments in current and future tax audits, could significantly impact the amounts provided for income taxes in our results of operations, financial position, or cash flows.

Accounts Receivable and Related Reserves

We record accounts receivable at the invoiced amounts, and these receivables do not bear interest. We record reserves as a reduction of our accounts receivable balance for doubtful accounts and revenue credits. Estimates are required to determine both of these reserves.

Our allowance for doubtful accounts reflects our best estimate of probable losses inherent in our receivables portfolio determined on the basis of historical experience, specific allowances for known troubled accounts and other currently available evidence. When collection of an outstanding balance is no longer probable, we will either partially or fully write-off the balance against the allowance for doubtful accounts. The allowance for doubtful accounts charges are included as a component of general and administrative expenses. Our reserve for revenue credits relates to service credits that are expected to be issued to customers during the ordinary course of business. These credits typically relate to customer disputes and billing adjustments and are recorded as reductions to revenues, net. Reserves for revenue credits are accounted for as variable consideration under authoritative revenue recognition guidance and are estimated using the expected value method based on an analysis of credits issued in previous periods. These estimates could change significantly for various reasons, including changes in our customers' financial condition, interruptions to our platform or deterioration in the economy.

Recent Accounting Pronouncements

See “Note 2 – Summary of Significant Accounting Policies” to the consolidated financial statements included in this Annual Report on Form 10-K, regarding the impact of certain recent accounting pronouncements on our consolidated financial statements.

ITEM 7A. Quantitative and Qualitative Disclosures About Market Risk

We have operations both within the United States and internationally and we are exposed to market risks in the ordinary course of our business. These risks primarily include interest rate, foreign exchange and inflation risks, as well as risks relating to changes in the general economic conditions in the countries where we conduct business. To manage certain of these risks, we monitor the financial condition of our large customers and limit credit exposure by setting credit limits as we deem appropriate. In addition, our investment strategy has been to invest in financial instruments that are highly liquid and readily convertible into cash, with maturity dates within three months from the date of purchase. To date, we have not used derivative instruments to mitigate the impact of our market risk exposures. We have also not used, nor do we intend to use, derivatives for trading or speculative purposes.

Interest Rate Risk

We are exposed to market risk related to changes in interest rates. Our investments are considered cash equivalents and primarily consist of money market funds. As of December 31, 2022, we had unrestricted cash and cash equivalents of $28.0 million. The carrying amount of our cash equivalents reasonably approximates fair value, due to the short maturities of these investments. The primary objectives of our investment activities are the preservation of capital, the fulfillment of liquidity needs and the fiduciary control of cash and investments. We do not enter into investments for trading or speculative purposes. Our investments are exposed to fluctuations in interest rates, which may affect our interest income and the fair market value of our investments. Due to the short-term nature of our investment portfolio, we believe only dramatic fluctuations in interest rates would have a material effect on our investments. As such, we do not expect our operating results or cash flows to be materially affected by a sudden change in market interest rates.

Foreign Currency Exchange Risk

We have foreign currency risks related to our revenues and operating expenses denominated in currencies other than the United States Dollar, primarily the Euro, British Pound Sterling, Singapore Dollar, Japanese Yen, Chinese Yuan and Australian Dollar. Revenues outside of the United States as a percentage of consolidated revenues were 21% and 23% for 2022 and 2021, respectively. Changes in exchange rates may negatively affect our revenues and other operating results as expressed in U.S. Dollars. Aggregate foreign currency (losses) gains included in determining net loss were $(0.1) million or less, in both 2022 and 2021. Transaction gains and losses are included in other income, net.

If our international operations grow or become a larger percentage of our overall business, our risks associated with fluctuation in currency rates will become greater, and we will continue to reassess our approach to managing this risk. In addition, currency fluctuations or a weakening U.S. Dollar can increase the costs of our international expansion, while a strengthening U.S. Dollar can negatively impact our international revenues. To date, we have not entered into any foreign currency hedging contracts, and, based on our current international structure, we do not plan on engaging in hedging activities in the near future.

Inflation Risk

We do not believe that inflation has had a material effect on our business, financial condition or results of operations. Nonetheless, if our costs were to become subject to significant inflationary pressures, we may not be able to fully offset such higher costs through price increases. Our inability or failure to do so could harm our business, financial condition and results of operations.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

The information in response to this item is included in our consolidated financial statements, together with the report thereon of Grant Thornton LLP, in Item 15 under the heading "Exhibits, Financial Statement Schedules," and in Item 7 under the heading "Management's Discussion and Analysis of Financial Condition and Results of Operations."

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

ITEM 9A. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

Regulations under the Securities Exchange Act of 1934, as amended, or the Exchange Act, require public companies, including us, to maintain "disclosure controls and procedures," which are defined in Rule 13a-15(e) and Rule 15d-15(e) to mean a company's controls and other procedures that are designed to ensure that information required to be disclosed in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the SEC's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed in our reports filed under the Exchange Act is accumulated and communicated to management, including our Principal Executive Officer and Principal Financial Officer, or persons performing similar functions, as appropriate to allow timely decisions regarding required or necessary disclosures.

In designing and evaluating our disclosure controls and procedures, management recognizes that disclosure controls and procedures, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the disclosure controls and procedures are met. Additionally, in designing disclosure controls and procedures, our management necessarily was required to apply its judgment in evaluating the cost-benefit relationship of possible disclosure controls and procedures. Further, controls can be circumvented by the individual acts of some persons, by collusion of two or more people or by management override of the controls. The design of any system of controls also is based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions; over time, controls may become inadequate because of changes in conditions, or the degree of compliance with policies or procedures may deteriorate. Because of the inherent limitations in a cost-effective control system, misstatements due to error or fraud may occur and not be detected.

Management, with the participation of our Principal Executive Officer and Principal Financial Officer have evaluated the effectiveness of the disclosure controls and procedures as of the end of the period. Based on such evaluation, the Principal Executive Officer and Principal Financial Officer have concluded that, as of December 31, 2022, our disclosure controls and procedures were effective at a reasonable assurance level.

Management's Annual Report on Internal Control over Financial Reporting

Management is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in Exchange Act Rules 13a-15(f) and 15(d)-15(f). Our internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of our assets; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of the financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures are being made only in accordance with authorizations of our management and directors; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of our assets that could have a material effect on the financial statements.

Internal control over financial reporting is designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements prepared for external purposes in accordance with generally accepted accounting principles. Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Our management, with the participation of our Principal Executive Officer and Principal Financial Officer, conducted an evaluation of the effectiveness of our internal control over financial reporting based on the framework in *Internal Control – Integrated*

Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission. As a result of that evaluation, management concluded that our internal control over financial reporting was effective as of December 31, 2022.

Management’s report was not subject to attestation by our registered public accounting firm pursuant to rules of the SEC that permit us to provide only management’s report in this annual report.

Changes in Internal Control Over Financial Reporting

There was no change in our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) that occurred during the quarterly period ended December 31, 2022, that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

ITEM 9B. OTHER INFORMATION

None.

ITEM 9C. DISCLOSE REGARDING FOREIGN JURISDICTIONS THAT PREVENT INSPECTIONS

Not applicable.

PART III

ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

The information required by this item concerning our directors, executive officers, Section 16 compliance and corporate governance matters will be set forth under the headings “Election of Directors”, “Executive Officers”, “Additional Information – Delinquent Section 16(a) Reports”, and “Board of Directors and Committees of the Board; Corporate Governance Standards and Director Independence – Code of Business Conduct and Ethics”, and “– Committees of the Board – Audit Committee” in the Proxy Statement and is incorporated into this report by reference.

ITEM 11. EXECUTIVE COMPENSATION

The information required by this item regarding executive compensation will be set forth under the headings “Election of Directors – Director Compensation” and “Executive Compensation” in the Proxy Statement and is incorporated into this report by reference.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

The information required by this item regarding security ownership of certain beneficial owners and management and related stockholder matters will be set forth under the headings “Security Ownership of Certain Beneficial Owners and Management” in the Proxy Statement and is incorporated into this report by reference.

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE

The information required by this item regarding related party transactions and director independence will be set forth under the headings “Board of Directors and Committees of the Board; Corporate Governance Standards and Director Independence,” and “Related Party Transactions” in the Proxy Statement and is incorporated into this report by reference.

ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES

The information required by this item regarding principal accounting fees and services will be set forth under the headings “Ratification of Appointment of Independent Registered Public Accounting Firm” in the Proxy Statement and is incorporated into this report by reference.

PART IV

ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES

(1) Financial Statements

The following financial statements are presented in response to Part II, Item 8, under the heading "Financial Statements and Supplementary Data":

Report of Grant Thornton LLP, Independent Registered Public Accounting Firm (PCAOB ID Number 248)
Consolidated Balance Sheets
Consolidated Statements of Comprehensive Loss
Consolidated Statements of Stockholders' Equity
Consolidated Statements of Cash Flows
Notes to Consolidated Financial Statements

The supplementary financial information required by Item 8 is included in Part II, Item 7 under the heading "Quarterly Results of Operations Data," which is incorporated herein by reference.

(2) Financial Statement Schedules

All schedules are omitted because they are not applicable, not required or the information is included in the accompanying consolidated financial statements or notes thereto.

(3) Exhibits

		Incorporated by Reference				
Exhibit Number	Description of Document	Form	File No.	Exhibit	Filing Date	Filed Herewith
1.1	Equity Distribution Agreement dated August 2, 2021, by and between Marin Software Incorporated and JMP Securities LLC.	8-K	001-35838	1.3	8/3/2021	
2.1	Asset Purchase Agreement by and among the Registrant and SharpSpring, Inc. dated November 21, 2019.	8-K	001-35838	99.1	11/21/2019	
3.1	Restated Certificate of Incorporation.	10-Q	001-35838	3.1	5/9/2013	
3.2	Restated Bylaws.	8-K	001-35838	3.1	3/22/2022	
3.3	Certificate of Amendment to Certificate of Incorporation.	8-K	001-35838	3.1	10/5/2017	
4.1	Form of Common Stock Certificate.	S-1/A	333-186669	4.1	3/15/2013	
4.2	Description of Securities Registered Pursuant to Section 12 of the Securities Exchange Act of 1934.	10-K	001-35838	4.2	3/23/2020	
10.1	Form of Indemnification Agreement.	10-K	001-35838	10.1	3/1/2019	
10.2#	2006 Equity Incentive Plan and forms of stock option agreement and stock option exercise agreement.	S-1	333-186669	10.2	2/13/2013	
10.3#	2013 Equity Incentive Plan and forms of stock option agreement, stock option exercise agreement, restricted stock agreement, and RSU award agreement.	S-1/A	333-186669	10.3	3/4/2013	
10.4#	2013 Employee Stock Purchase Plan and form of subscription agreement.	S-1/A	333-186669	10.4	3/4/2013	

10.5#	Form of Severance and Change in Control Agreement between the Registrant and each of the executive officers.	S-1/A	333-186669	10.9	3/11/2013	
10.6#	Executive Bonus Compensation Plan.	10-K	001-35838	10.11	2/20/2015	
10.7#	Description of Director Compensation Program.	10-K	001-35838	10.9	2/24/2022	
10.8#	Transition and Separation Agreement, dated as of September 14, 2015, by and between the Registrant and Christopher A. Lien.	10-Q	001-35838	10.4	11/5/2015	
10.9#	Offer Letter, dated as of August 23, 2016, by and between the Registrant and Christopher A. Lien.	10-Q	001-35838	10.1	11/9/2016	
10.10†	Revenue Share Agreement, dated December 11, 2019, by and between the Registrant and Google LLC.	10-K	001-35838	10.16	3/14/2019	
10.11#	Offer Letter, dated August 23, 2016, by and between the Registrant and Wister Walcott.	10-K	001-35838	10.17	3/14/2019	
10.12#	Offer Letter, dated December 5, 2019, by and between the Registrant and Robert Bertz.	10-K	001-35838	10.18	3/23/2020	
10.13#	Amended and Restated Severance and Change in Control Agreement, dated January 28, 2021, by and between the Registrant and Robert Bertz.	10-K	001-35838	10.17	2/26/2021	
10.14	Amendment No. 1 to Google Revenue Share Agreement, dated as of March 17, 2020, by and between the Registrant and Google LLC.	10-K	001-35838	10.20	3/23/2020	
10.15#	Form of Waiver under Change in Control and Severance Agreement	8-K	001-35838	99.1	5/21/2020	
10.16†	Revenue Share Agreement entered into as of September 17, 2021 by and between Google and Marin Software Incorporated.	10-Q	001-35838	10.21	11/4/2021	
21.1	Subsidiaries of the Registrant.					X
23.1	Consent of Grant Thornton LLP, independent registered public accounting firm.					X
31.1	Certification of Principal Executive Officer pursuant to Rule 13a-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.					X
31.2	Certification of Principal Financial Officer pursuant to Rule 13a-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.					X
32.1*	Certification of Principal Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.					X
32.2*	Certification of Principal Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.					X
101.INS	Inline XBRL Instance Document					X

101.SCH	Inline XBRL Taxonomy Schema Linkbase Document	X
101.CAL	Inline XBRL Taxonomy Calculation Linkbase Document	X
101.DEF	Inline XBRL Taxonomy Definition Linkbase Document	X
101.LAB	Inline XBRL Taxonomy Labels Linkbase Document	X
101.PRE	Inline XBRL Taxonomy Presentation Linkbase Document	X
104	Cover Page Interactive Date File (formatted as Inline XBRL and included in Exhibit 101)	X

* As contemplated by SEC Release No. 33-8212, these exhibits are furnished with this Annual Report on Form 10-K and are not deemed filed with the Securities and Exchange Commission and are not incorporated by reference in any filing of the Registrant under the Securities Act of 1933 or the Exchange Act of 1934, whether made before or after the date hereof and irrespective of any general incorporation language in such filings.
# Represents a management contract or compensatory plan.
† Confidential treatment has been granted for portions of this exhibit pursuant to Rule 24b-2 promulgated under the Exchange Act. These portions have been omitted and submitted separately to the Securities and Exchange Commission.

ITEM 16. FORM 10-K SUMMARY

None.

Report of Independent Registered Public Accounting Firm

Board of Directors and Shareholders

Marin Software Incorporated

Opinion on the financial statements

We have audited the accompanying consolidated balance sheets of Marin Software Incorporated (a Delaware corporation) and subsidiaries (the "Company") as of December 31, 2022 and 2021, the related consolidated statements of comprehensive loss, changes in stockholders' equity, and cash flows for each of the two years in the period ended December 31, 2022, and the related notes (collectively referred to as the "financial statements"). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2022 and 2021, and the results of its operations and its cash flows for each of the two years in the period ended December 31, 2022, in conformity with accounting principles generally accepted in the United States of America.

Basis for opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) ("PCAOB") and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

Critical audit matters

Critical audit matters are matters arising from the current period audit of the financial statements that were communicated or required to be communicated to the audit committee and that: (1) relate to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective, or complex judgments. We determined that there are no critical audit matters.

/s/ GRANT THORNTON LLP

We have served as the Company's auditor since 2018.

San Jose, California
February 23, 2023

Marin Software Incorporated
Consolidated Balance Sheets
(in thousands, except per share data)

	December 31,	
	2022	**2021**
Assets:		
Current assets:		
Cash and cash equivalents	$ 27,957	$ 46,842
Restricted cash	—	215
Accounts receivable, net	4,521	4,633
Prepaid expenses and other current assets	2,016	2,324
Total current assets	34,494	54,014
Property and equipment, net	3,213	3,622
Right-of-use assets, operating leases	3,844	1,660
Other non-current assets	533	535
Total assets	$ 42,084	$ 59,831
Liabilities and Stockholders' Equity:		
Current liabilities:		
Accounts payable	$ 1,011	$ 975
Accrued expenses and other current liabilities	3,513	6,176
Note payable, current	—	2,226
Operating lease liabilities	1,645	2,006
Total current liabilities	6,169	11,383
Note payable, net of current	—	1,094
Operating lease liabilities, non-current	2,199	—
Other long-term liabilities	1,002	1,096
Total liabilities	9,370	13,573
Commitments and contingencies (Note 15)		
Stockholders' equity:		
Convertible preferred stock, $0.001 par value - 10,000 shares authorized, no shares issued and outstanding at December 31, 2022 and 2021, respectively	—	—
Common stock, $0.001 par value - 142,857 shares authorized, 17,226 and 15,532 shares issued and outstanding at December 31, 2022 and 2021, respectively	17	15
Additional paid-in capital	355,996	351,394
Accumulated deficit	(322,334)	(304,107)
Accumulated other comprehensive loss	(965)	(1,044)
Total stockholders' equity	32,714	46,258
Total liabilities and stockholders' equity	$ 42,084	$ 59,831

The accompanying notes are an integral part of these consolidated financial statements.

Marin Software Incorporated
Consolidated Statements of Comprehensive Loss
(in thousands, except per share data)

	Years Ended December 31,	
	2022	2021
Revenues, net	$ 20,019	$ 24,420
Cost of revenues	12,795	12,885
Gross profit	7,224	11,535
Operating expenses:		
Sales and marketing	6,997	5,482
Research and development	11,832	10,788
General and administrative	10,396	9,327
Total operating expenses	29,225	25,597
Loss from operations	(22,001)	(14,062)
Other income, net	4,079	984
Loss before benefit from income taxes	(17,922)	(13,078)
Income tax expense (benefit), net	305	(134)
Net loss	(18,227)	(12,944)
Foreign currency translation adjustments	79	53
Comprehensive loss	$ (18,148)	$ (12,891)
Net loss per share available to common stockholders, basic and diluted	$ (1.15)	$ (1.01)
Weighted-average shares used to compute net loss per share available to common stockholders, basic and diluted	15,891	12,846

The accompanying notes are an integral part of these consolidated financial statements.

Marin Software Incorporated
Consolidated Statements of Stockholders' Equity
(in thousands)

	Common Stock		Additional Paid-In Capital	Accumulated Deficit	Accumulated Other Comprehensive Loss	Total Stockholders' Equity
	Shares	Amount				
Balances at December 31, 2020	9,743	$ 10	$ 308,065	$ (291,163)	$ (1,097)	$ 15,815
Issuance of common stock through at-the-market offering, net of offering costs of $1,538 (Note 8)	5,502	5	41,637	—	—	41,642
Issuance of common stock from vesting of restricted stock units (Note 9)	264	—	—	—	—	—
Tax withholding related to vesting of restricted stock units	—	—	(444)	—	—	(444)
Issuance of common stock under employee stock purchase plan	23	—	28	—	—	28
Stock-based compensation expense	—	—	2,108	—	—	2,108
Net loss	—	—	—	(12,944)	—	(12,944)
Foreign currency translation adjustments	—	—	—	—	53	53
Balances at December 31, 2021	15,532	15	351,394	(304,107)	(1,044)	46,258
Issuance of common stock through at-the-market offering, net of offering costs of $95 (Note 8)	1,073	1	1,332	—	—	1,333
Issuance of common stock from vesting of restricted stock units (Note 9)	594	—	—	—	—	—
Tax withholding related to vesting of restricted stock units	—	—	(434)	—	—	(434)
Issuance of common stock under employee stock purchase plan	27	1	36	—	—	37
Stock-based compensation expense	—	—	3,668	—	—	3,668
Net loss	—	—	—	(18,227)	—	(18,227)
Foreign currency translation adjustments	—	—	—	—	79	79
Balances at December 31, 2022	17,226	$ 17	$ 355,996	$ (322,334)	$ (965)	$ 32,714

The accompanying notes are an integral part of these consolidated financial statements.

Marin Software Incorporated
Consolidated Statements of Cash Flows
(in thousands)

	Years Ended December 31, 2022	Years Ended December 31, 2021
Operating activities:		
Net loss	$ (18,227)	$ (12,944)
Adjustments to reconcile net loss to net cash used in operating activities		
Depreciation	447	851
Amortization of internally developed software	1,810	2,356
Amortization of deferred costs to obtain and fulfill contracts	352	305
Forgiveness of Paycheck Protection Program loan	(3,117)	—
Interest expense	—	6
Loss on disposals of property and equipment and right-of-use assets	28	31
Unrealized foreign currency losses	80	50
Stock-based compensation related to equity awards	3,555	2,021
Provision for bad debts	16	(131)
Net change in operating leases	(345)	(531)
Deferred income tax benefits	48	(12)
Changes in operating assets and liabilities		
Accounts receivable	73	563
Prepaid expenses and other assets	(102)	353
Accounts payable	31	47
Accrued expenses and other liabilities	(2,786)	(907)
Net cash used in operating activities	(18,137)	(7,942)
Investing activities:		
Purchases of property and equipment	(24)	(6)
Capitalization of internally developed software	(1,740)	(1,290)
Net cash used in investing activities	(1,764)	(1,296)
Financing activities:		
Proceeds from issuance of common shares through at-the-market offering, net of offering costs	1,333	41,888
Payment of principal on finance lease liabilities	—	(15)
Repayment of Paycheck Protection Program loan	(203)	—
Employee taxes paid for withheld shares upon equity award settlement	(424)	(428)
Proceeds from employee stock purchase plan, net	34	34
Net cash provided by financing activities	740	41,479
Effect of foreign exchange rate changes on cash and cash equivalents and restricted cash	61	(4)
Net (decrease) increase in cash and cash equivalents and restricted cash	(19,100)	32,237
Cash and cash equivalents and restricted cash:		
Beginning of year	47,057	14,820
End of year	$ 27,957	$ 47,057
Supplemental disclosures of other cash flow information:		
Cash paid for (received from) income taxes	$ 168	$ (1,031)
Supplemental disclosures of non-cash investing and financing activities:		
Issuance of common stock under employee stock purchase plan	$ 37	$ 28
Amortization of prepaid stock issuance costs	$ —	246

The accompanying notes are an integral part of these consolidated financial statements.

1. Background

Marin Software Incorporated (the "Company") was incorporated in Delaware in March 2006. The Company provides enterprise marketing software for advertisers and agencies to integrate, align and amplify their digital advertising spend across the web and mobile devices. Offered as a unified software-as-a-service ("SaaS") advertising management solution for search, social and eCommerce advertising, the Company's platform helps digital marketers convert precise audiences, improve financial performance and make better decisions.

References to "2022" and "2021" shall mean the years ended December 31, 2022 and 2021, respectively. All amounts presented in these notes to the consolidated financial statements are in thousands, except where noted.

2. Summary of Significant Accounting Policies

Principles of Consolidation

The consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries. All intercompany accounts and transactions have been eliminated upon consolidation.

Accounting Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States ("GAAP") requires management to make certain estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. The Company is subject to uncertainties such as the impact of future events, economic and political factors and changes in the Company's business environment; therefore, actual results could differ from these estimates. Accordingly, the accounting estimates used in the preparation of the Company's financial statements will change as new events occur, as more experience is acquired, as additional information is obtained and as the Company's operating environment changes. Changes in estimates are made when circumstances warrant. Such changes in estimates and refinements in estimation methodologies are reflected in reported results of operations and if material, the effects of changes in estimates are disclosed in the notes to the consolidated financial statements. Significant estimates and assumptions by management affect the allowances for doubtful accounts and customer revenue credits, and the accounting for income taxes.

Certain Significant Risks and Uncertainties

The Company operates in a rapidly changing environment that involves a number of risks, some of which are beyond the Company's control that could have a material adverse effect on the Company's business, operating results and financial condition. These risks include, among others, the Company's history of losses and negative cash flows; the highly competitive environment in which the Company operates; the ability to maintain and increase usage rates of the Company's platform and the ability for the Company to increase demand for its solutions.

Any lingering or renewed effects of the COVID-19 pandemic may continue to create significant uncertainty in global financial markets, which may depress demand for the Company's platform and adversely affect the Company's business and results of operations.

The Company has incurred significant losses in each fiscal year since its incorporation in 2006, and management expects such losses to continue in the future. The Company incurred net losses of $18,227 and $12,944 in 2022 and 2021, respectively. As of December 31, 2022, the Company had an accumulated deficit of $322,334. The Company had cash and cash equivalents of $27,957 as of December 31, 2022. Management expects to incur additional losses and experience negative operating cash flows in the future. The Company's ability to achieve its business objectives and to continue to meet its obligations is dependent upon maintaining a certain level of liquidity, which could be impacted by several factors, including the extent of customer acceptance and adoption of its new MarinOne platform, the ongoing effects of the COVID-19 pandemic, and general macroeconomic conditions such as inflation or the extent and duration of any recession. Although the Company has pursued, and may continue to pursue, additional sources of liquidity, including additional equity and debt financing, there is no assurance that any additional financing will be available on acceptable terms, or at all. The Company's ability to continue as a going concern is substantially dependent upon its ability to improve customer retention rates, increase new bookings, and manage its expenses.

In July 2021, the Company sold 4,316 shares of its common stock under an equity distribution agreement with JMP Securities and received proceeds of $38,800, net of $1,200 in fees to JMP Securities, which exhausted all securities available for sale under this equity distribution agreement. See Note 8 "Shelf Registration and At-the-Market Offering" for additional information.

In August 2021, the Company filed a new shelf registration statement on Form S-3 with the SEC, which was declared effective by the SEC on August 19, 2021 and provides that the Company may offer its common stock, preferred stock, debt securities, warrants, subscription rights and units having an aggregate offering price of up to $100,000. As part of this new 2021 registration statement, the Company entered into a third equity distribution agreement with JMP Securities and established a new $50,000 "at-the-market" securities offering facility pursuant to which it may be able to issue and sell shares of its common stock. During the year ended December 31, 2022, the Company sold 1.1 million shares of its common stock under this new equity distribution agreement and received proceeds of approximately $1.3 million, net of offering costs of $0.1 million, at a weighted average sales price of $1.33 per share. In accordance with the SEC's Instruction I.B.6 of Registration Statement on Form S-3, the Company adjusted the maximum aggregate market value of the securities that may be sold pursuant to this current "at-the-market" securities offering facility from $50,000 to approximately $22,800 based on the estimated market capitalization of the Company on the date the Company filed its Annual Report on Form 10-K for the year ended December 31, 2021 until such time, if at all, when the Company is required to make any further adjustments to the maximum aggregate offering size or becomes eligible to conduct such offering in accordance with Instruction I.B.1 of the Registration Statement on Form S-3.

The Company is not aware of any specific event or circumstance that would require it to update its estimates, judgments or revise the carrying value of its assets or liabilities. These estimates may change, as new events occur and additional information is obtained, and are recognized in the consolidated financial statements as soon as they become known. Actual results could differ from those estimates and any such differences may be material to the Company's financial statements.

Concentration of Credit Risk

Financial instruments that potentially subject the Company to concentrations of credit risk consist of cash, cash equivalents and accounts receivable. The Company's cash and cash equivalents are placed with high-credit-quality financial institutions and issuers, and at times exceed federally insured limits. The Company has not experienced any loss relating to cash and cash equivalents in these accounts. The Company performs periodic credit evaluations of its customers and generally does not require collateral.

As of December 31, 2022 and 2021, accounts receivable from one long-term strategic agreement with Google (see Note 3) accounted for 40% and 39%, respectively, of the Company's total accounts receivable, net. Revenues, net from the same long-term strategic agreement accounted for 36% and 35% of total revenues, net for the years ended December 31, 2022 and 2021, respectively.

Cash and Cash Equivalents and Restricted Cash

The Company considers all highly liquid investments with an original or remaining maturity from the Company's date of purchase of 90 days or less to be cash equivalents. Deposits held with financial institutions are likely to exceed the amount of insurance on these deposits. Cash equivalents consist of money market funds which are readily convertible into cash and have original maturity dates of less than three months from the date of their respective purchases. Cash equivalents were $26,645 and $44,930 as of December 31, 2022 and 2021, respectively. The Company held restricted cash of $215 as of December 31, 2021 to secure the lease for its San Francisco corporate headquarters. The San Francisco lease expired in 2022 and the cash restriction was released.

Fair Value of Financial Instruments

The Company's financial instruments, including accounts receivable, accounts payable and accrued expenses are carried at cost, which approximates fair value because of the short-term nature of those instruments. Based on borrowing rates available to the Company for loans with similar terms and maturities and in consideration of the Company's credit risk profile, the carrying value of outstanding lease liabilities approximates fair value as well.

The Company measures and reports certain financial assets at fair value on a recurring basis, including its investments in money market funds. The fair value hierarchy prioritizes the inputs into three broad levels:

Level 1 — Inputs are unadjusted quoted prices in active markets for identical assets or liabilities.

Level 2 — Inputs are quoted prices for similar assets and liabilities in active markets or inputs that are observable for the asset or liability, either directly or indirectly through market corroboration, for substantially the full term of the financial instrument.

Level 3

Inputs are unobservable inputs based on the Company's assumptions.

A financial instrument's level within the fair value hierarchy is based on the lowest level of input that is significant to the fair value measurement.

Allowances for Doubtful Accounts and Revenue Credits

The allowance for doubtful accounts reflects the Company's best estimate of probable losses inherent in the Company's receivables portfolio determined on the basis of historical experience, specific allowances for known troubled accounts and other currently available evidence. The Company performs a regular review of its customers' payment histories and associated credit risks and it generally does not require collateral from its customers. When collection of an outstanding balance is no longer probable, the Company will either partially or fully write-off the balance against the allowance for doubtful accounts. Certain contracts with advertising agencies contain sequential liability provisions, whereby the agency does not have an obligation to pay the Company until payment is received from the agency's customers. In these circumstances, the Company evaluates the credit worthiness of the agency's customers, in addition to the agency itself. The following are changes in the allowance for doubtful accounts for the periods presented.

	Years Ended December 31,	
	2022	**2021**
Balances at beginning of year	$ 786	$ 1,236
Addition to (reduction in) expense	16	(131)
Write-offs and other deductions	(66)	(319)
Balances at end of year	$ 736	$ 786

From time to time, the Company provides revenue credits to customers. These typically relate to customer disputes and billing adjustments and are recorded as a reduction of revenues, net. Reserves for these revenue credits are accounted for as variable consideration under authoritative revenue recognition guidance (see Note 3) and are estimated based on historical credit activity. As of December 31, 2022 and 2021, the Company recorded an allowance for potential customer revenue credits in the amount of $110 and $131, respectively.

Property and Equipment

Property and equipment are stated at historical cost less accumulated depreciation and amortization. Depreciation and amortization are computed using the straight-line method over the estimated useful lives of the related assets.

Upon retirement or sale, the cost and related accumulated depreciation are removed from the balance sheet and the resulting gain or loss is reflected in operations. Major additions and improvements are capitalized while repairs and maintenance that do not extend the life of the asset are charged to operations as incurred. Depreciation and amortization expense is allocated to both cost of revenues and operating expenses.

Internally Developed Software

Costs incurred in the development phase are capitalized and amortized over the product's estimated useful life, which is three years. The Company expenses all costs incurred that relate to planning and post implementation phases of development. Development phase costs generally include salaries and personnel costs and third-party contractor expenses associated with software development, configuration and coding. Capitalized costs related to internally developed software under development are treated as construction in progress until the program, feature or functionality is ready for its intended use, at which time amortization commences. For 2022 and 2021, the Company capitalized $1,853 and $1,290 of costs related to internally developed software, respectively. Amortization of capitalized costs related to internally developed software was $1,810 and $2,356 for 2022 and 2021, respectively. As of December 31, 2022 and 2021, unamortized internally developed software costs, including construction in progress, totaled $3,071 and $3,029, respectively. Amortization of internally developed software is reflected in cost of revenues. Costs associated with minor enhancements and maintenance are expensed as incurred.

Impairment of Long-Lived Assets

The Company evaluates long-lived assets, excluding goodwill, for potential impairment whenever adverse events or changes in circumstances or business climate indicate that expected undiscounted future cash flows related to such long-lived assets may not be sufficient to support the net book value of such assets. An impairment loss is recognized only if the carrying value of a long-lived asset or asset group is not recoverable and exceeds its fair value. The carrying value of a long-lived asset or asset group is not recoverable if it exceeds the sum of the undiscounted cash flows expected to result from the use and eventual disposition of the asset. There were no such impairment losses in 2022 or 2021.

Leases

The Company has operating leases for space at a data center and for office space worldwide. New contractual arrangements are evaluated at inception to determine if the contract is or contains a lease. For any contracts that are or contain a lease, the Company determines the appropriate classification of each identified lease as operating or finance. For all identified leases, the Company records the related lease liabilities and right-of-use ("ROU") assets based on the future minimum lease payments over the lease term, which only includes options to renew the lease if it is reasonably certain that the Company will exercise that option. For leases with original terms of 12 months or less, the Company recognizes the lease expense as incurred and does not recognize lease liabilities and ROU assets.

Lease liabilities are measured based on the future minimum lease payments discounted over the lease term. The Company uses the discount rate implicit in the lease whenever that rate is readily determinable. For leases where no such rate is determinable, the Company uses its incremental borrowing rate, or the rate of interest that Company would have to pay to borrow an amount equal to the lease payments, on a collateralized basis over a similar term and in a similar economic environment.

Current and non-current operating lease liabilities are presented on the consolidated balance sheet, while current finance lease liabilities are included in accrued expenses and other current liabilities, and non-current finance lease liabilities are included in other long-term liabilities on the consolidated balance sheets.

ROU assets are measured based on the associated lease liabilities, adjusted for any lease incentives such as tenant improvement allowances. ROU assets for operating leases are presented as non-current assets on the consolidated balance sheet, while ROU assets for finance leases are included within property and equipment, net. For operating leases, the Company recognizes the expense for lease payments on straight-line basis over the lease term.

See Note 11 for further discussion on the Company's leases.

Revenue Recognition

The Company generates revenues principally from subscriptions either directly with advertisers or with advertising agencies to its platform for the management of search, social and eCommerce advertising. The Company also generates revenues from strategic agreements with certain leading publishers. Under these strategic agreements, the Company receives consideration based on a percentage of the search advertising spend that customers manage on its platform. Revenues are recognized when control of these services is transferred to the Company's customers, in an amount that reflects the consideration the Company expects to be entitled to in exchange for those services.

See Note 3 for further discussion on the Company's revenues.

Cost of Revenues

Cost of revenues primarily consists of costs related to hosting the Company's cloud-based platform, providing implementation and ongoing customer support, data communications expenses, salaries and benefits of operations and support personnel, software license fees, costs associated with website development activities, indirect overhead, amortization expense associated with capitalized internally developed software and property and equipment depreciation.

Stock-Based Compensation Expense

Stock-based compensation expense is measured at grant date based on the fair value of the award and is expensed on a straight-line basis over the requisite service period. Restricted stock units ("RSUs") are measured based on the fair market values of the underlying common stock on the dates of grant. Shares of common stock are issued on the vesting dates. Fair values of stock option awards are determined on the date of grant using the Black-Scholes option-pricing model. In applying this option-pricing model, the Company's determination of the fair value of the stock option award on the date of grant is affected by the Company's fair value of its common stock, as well as assumptions regarding a number of subjective variables. These variables include, but are not limited to, the Company's expected stock price volatility, actual and projected stock option exercise behaviors and risk-free interest rate.

For stock option and RSU awards with time-based vesting, the Company recognizes stock-based compensation expense over the requisite service period using the straight-line method, based on awards ultimately expected to vest.

See Note 9 and Note 10 for further information.

Research and Development

Research and development costs are expensed as incurred, except for certain internal software development costs, which may be capitalized as noted above. Research and development costs consist of personnel costs, including salaries, stock-based compensation expense, benefits and bonuses, as well as non-personnel costs such as professional fees payable to third-party development resources, amortization of intangible assets and allocated overhead costs.

Advertising and Promotion

Advertising and promotional costs are expensed as incurred and included in sales and marketing expense in the accompanying consolidated statements of comprehensive loss. Advertising and promotion expense totaled $653 and $221 for 2022 and 2021, respectively.

Sales Taxes

Sales and other taxes collected from customers and remitted to governmental authorities are presented on a net basis and thus excluded from revenues.

Foreign Currency

For international subsidiaries whose functional currency is not the U.S. Dollar, The Company re-measures the monetary assets and liabilities of these subsidiaries to U.S. Dollars using rates of exchange in effect at the balance sheet date. Nonmonetary assets and liabilities are re-measured to U.S. Dollars using historical exchange rates, and other accounts are re-measured using average exchange rates in effect during each period presented. The effects of foreign currency translation adjustments are included in stockholders' equity as a component of accumulated other comprehensive loss on the accompanying consolidated balance sheets, and related periodic movements are summarized as a line item in the consolidated statements of comprehensive loss.

The Company records net gains and losses resulting from foreign exchange transactions as a component of other income, net. Aggregate foreign currency gains (losses) included in determining net loss were $(127) and $(21) for 2022 and 2021, respectively.

Income Taxes

The Company accounts for income taxes using the asset and liability method. Under this method, deferred tax assets and liabilities are determined based on differences between the financial statement and tax basis of assets and liabilities and net operating loss and credit carryforwards using enacted tax rates in effect for the year in which the differences are expected to reverse. Valuation allowances are established when necessary to reduce deferred tax assets to the amounts expected to be realized.

The Company accounts for uncertain tax positions using a more-likely-than-not threshold for financial statement recognition and measurement of tax positions taken or expected to be taken in a tax return. The Company establishes a liability for tax-related uncertainties based on estimates of whether, and the extent to which, additional taxes will be due. The Company records an income tax liability, if any, for the difference between the benefit recognized and measured and the tax position taken or expected to be taken on the Company's tax returns. To the extent that the assessment of such tax positions changes, the change in estimate is recorded in the period in which the determination is made. The liability is adjusted in light of changing facts and circumstances, such as the outcome of a tax audit. The Company recognizes interest and penalties related to uncertain tax positions as income tax expense, though such amounts were not material in 2022 or 2021. The Company does not expect that changes in the liability for uncertain tax positions for the next twelve months will have a material impact on the Company's consolidated financial position or results of operations.

Paycheck Protection Program (PPP) Loan

The Company accounted for its PPP Loan as debt under the guidance in Accounting Standards Codification 470, Debt. As such, the outstanding amount was reflected as a note payable in the Company's consolidated balance sheets, the proceeds were reflected under financing activities in the Company's consolidated statement of cash flows and interest expense was accrued and recognized in the Company's statement of operations. An aggregate principal amount of $3,117 of the Loan was forgiven in January 2022 and the Company repaid the remaining outstanding balance of approximately $200 in February 2022. The forgiveness of a $3,117 of the PPP Loan amount in January 2022 was reflected as a gain on debt extinguishment in the Company's statement of operations and as an adjustment to cash from operating activities in the Statements of Cash Flows. The $200 repayment was reflected as a financing activity in the Statements of Cash Flows. See also Note 7.

Recently Adopted Accounting Pronouncements

None

Recent Accounting Pronouncements Not Yet Effective

In June 2016, the Financial Accounting Standards Board (”FASB”) issued Accounting Standards Update (“ASU”) 2016-13, *Financial Instruments – Credit Losses – Measurement of Credit Losses on Financial Instruments* (Topic 326), which changes the impairment model for most financial assets and certain other financial instruments to require the use of a new forward-looking “expected loss” model that will generally result in earlier recognition of allowances for losses. This ASU will also require disclosure of more information related to these items. As the Company meets the SEC’s definition of a “smaller reporting company”, ASU 2016-13 is effective for annual periods beginning after December 15, 2022 and interim periods within those fiscal years, with early adoption permitted. The Company does not expect that adoption of this ASU will have a material impact on its financial position or results of operations.

3. Revenues

Revenue Recognition

The Company generates its revenues principally from subscriptions either directly with advertisers or with advertising agencies to its platform for the management of search, social and eCommerce advertising. It also generates a portion of its revenues from long-term strategic agreements with certain leading publishers. Revenues are recognized when control of these services is transferred to the Company’s customers, in an amount that reflects the consideration the Company expects to be entitled to in exchange for those services. The Company determines revenue recognition through the following steps:

- Identification of the contract, or contracts, with a customer;
- Identification of the performance obligations in the contract;
- Determination of the transaction price;
- Allocation of the transaction price to the performance obligations in the contract; and
- Recognition of revenue when, or as, the Company satisfies a performance obligation.

Subscriptions

The Company's subscription contracts provide advertisers with access to the Company's advertising management platform. Advertisers do not have the right to take possession of the software supporting the services at any time. These contracts are generally one year or less in length, though certain contracts extend up to two years. The subscription fee under most contracts consists of the greater of a minimum monthly platform fee or variable consideration based on the volume of advertising spend managed through the Company’s platform at the contractual percentage of spend. The variable portion generally includes tiered pricing, whereby the percentage of spend charged decreases as the value of advertising spend increases. Generally the tiered pricing resets monthly and is consistent throughout the contract term. The Company has concluded that this volume-based pricing approach does not constitute a future material right as the pricing tiers are consistent throughout the term of the contract and similar pricing is typically offered to similar classes of customers within the same geographical areas and markets. Certain subscription contracts consist of only a flat monthly platform fee. Subscription fees are generally invoiced on a monthly basis in arrears based on the actual amount of advertising spend managed on the platform. In certain limited circumstances, the Company will invoice an advertiser in advance for the contractual minimum monthly platform fee for a defined future period, which is typically three to 12 months.

The Company's subscription services comprise a single stand-ready performance obligation satisfied over time as the advertiser simultaneously receives and consumes the benefit from the Company's performance. This performance obligation constitutes a series of services that are substantially the same in nature and are provided over time using the same measure of progress. Revenues derived from these arrangements are recognized over time using an output method based upon the passage of time as this provides a faithful depiction of the pattern of transfer of control. Fixed minimum monthly platform fees are recognized ratably over the contract term as the single performance obligation is satisfied. Variable fees are allocated to the distinct month of the series in which they are earned because the terms of the variable payments relate specifically to the outcome from transferring the distinct time increment (month) of service and because such amounts reflect the fees to which the Company expects to be entitled for providing access to the advertising management platform for that period, consistent with the allocation objective of authoritative revenue guidance under ASC 606.

Expected future revenues for subscription services related to performance obligations that are unsatisfied (or partially unsatisfied) as of December 31, 2022 were as follows:

		Subscription Services Revenues
2023	$	826
2024		209
Total	$	1,035

The Company applies the optional exemption under ASC 606 and does not disclose the value of unsatisfied performance obligations on subscription contracts with an original term of one year or less. The amounts disclosed above as remaining performance obligations consist primarily of fixed or monthly minimum fees under contracts with an original expected duration of greater than one year. The amounts exclude estimates of variable consideration such as volume-based contracts, as well as anticipated renewals of contracts.

Strategic Agreements

The Company has entered into long-term strategic agreements with certain leading search publishers. Under these strategic agreements, the Company receives consideration based on a percentage of the search advertising spend that its customers manage on its platform. These strategic agreements are generally billed on a quarterly basis.

The majority of the Company's strategic agreement revenue is concentrated in one revenue share agreement executed with Google. The first Google agreement was executed in December 2018, with an effective date of October 1, 2018 and expired in September 2021 (the "Original Google Revenue Share Agreement"). Under the Original Google Revenue Share Agreement, which constituted a single performance obligation, the Company was eligible to receive both fixed and variable revenue share payments based on a percentage of the search advertising spend that is managed through the Company's platform. The Original Google Revenue Share Agreement required the Company to reinvest a specified percentage of these revenue share payments in its search technology platform to drive innovation. The performance obligation was expected to be satisfied ratably over the two-year contractual term using the output method based upon the passage of time, as Google simultaneously receives and consumes the benefit from the Company's performance, which provides a faithful depiction of the pattern of transfer of control.

In September 2021, the Company entered into a New Revenue Share Agreement with Google, which agreement has a scheduled three-year term beginning on October 1, 2021 (the "New Google Revenue Share Agreement") and continuing through September 30, 2024. This agreement is similar to the Original Google Revenue Share Agreement in that the Company is eligible to receive fixed and variable revenue share payments based on a percentage of the search advertising spend that is managed through the Company's platform and in that the Company is required to reinvest a specified percentage of these revenue share payments in its search technology platform to drive innovation. The Company expects to recognize revenues totaling approximately $7,150 and $5,363 for the years ending December 31, 2023 and 2024, respectively, related to remaining performance obligations under this New Google Revenue Share Agreement.

The Company evaluates the total amount of variable revenue share payments expected to be earned from the New Google Revenue Share Agreement by using the most likely method, as it believes this method represents the most appropriate estimate for this consideration, based on historical service trends, the individual contract considerations and the Company's best judgment. The Company includes estimates of variable consideration in revenues only to the extent that it is probable that a significant reversal in the amount of cumulative revenue recognized will not occur when the uncertainty associated with the variable consideration is subsequently resolved. For the years ended December 31, 2022 and 2021, the Company recognized $7,150 and $8,637, respectively, as revenues from the Original Google Revenue Share Agreement and the New Google Revenue Share Agreement. Revenue for the year ended December 31, 2021 includes revenue from the Original Google Revenue Share Agreement and the New Google Revenue Share Agreement.

Disaggregation of Revenues, net

Revenues, net by geographic area, based on the billing location of the customer, were as follows for the periods presented:

	Years Ended December 31,	
	2022	2021
United States of America	$ 15,867	$ 18,817
United Kingdom	2,272	2,851
Other (1)	1,880	2,752
Total revenues, net	$ 20,019	$ 24,420

(1) No individual country within the "Other" category accounted for 10% or more of revenues, net for any period presented.

Revenues, net by nature of services performed were as follows for the periods presented:

	Years Ended December 31,	
	2022	2021
Subscriptions	$ 12,722	$ 15,648
Strategic agreements	7,297	8,772
Total revenues, net	$ 20,019	$ 24,420

Contract Balances

Accounts receivable, net

The timing of revenue recognition may differ from the timing of invoicing to customers. Accounts receivable are recorded at the invoice amount, net of any allowances for doubtful accounts and revenue credits. A receivable is recognized in the period the Company provides the underlying services or when the right to consideration is unconditional. The balances of accounts receivable, net of the allowances for doubtful accounts and revenue credits, as of December 31, 2022 and 2021 are presented in the accompanying consolidated balance sheets and was $5,063 as of December 31, 2020. Included in the balance of accounts receivable, net as of December 31, 2022 and 2021 was $1,788 and $1,787, respectively, of unbilled receivables related to the New Google Revenue Share Agreement.

Customer advances

In certain situations, the Company receives cash payments from customers in advance of its performance of the underlying services. These advances from customers are included within accrued expenses and other current liabilities on the accompanying consolidated balance sheets.

Costs to Obtain and Fulfill Contracts

The Company capitalizes certain contract acquisition costs, consisting primarily of commissions and related payroll taxes, when customer contracts are signed. The Company also capitalizes certain contract fulfillment costs, consisting primarily of the portion of the payroll and fringe benefits of the Company's professional services team that relates directly to performing on-boarding and integration services for new and existing customers (collectively, "deferred costs to obtain and fulfill contracts").

The deferred costs to obtain and fulfill contracts are amortized over the expected period of benefit, which the Company has determined to be approximately 30 months. This expected period of benefit takes into consideration the duration of the Company's customer contracts, historical contract renewal rates, the underlying technology and other factors. Amortization expense for deferred costs to obtain and fulfill contracts is included in sales and marketing expense and cost of sales, respectively, on the accompanying consolidated statements of comprehensive loss. There were no impairment losses related to costs capitalized in 2022 and 2021.

The Company classifies deferred costs to obtain and fulfill contracts as current or non-current based on the timing of when the related amortization expense is expected to be recognized. The current portion of these deferred costs is included in prepaid expenses and other current assets, while the non-current portion is included in other non-current assets on the accompanying consolidated balance sheets. Changes in the balances of deferred costs to obtain and fulfill contracts during the year ended December 31, 2022 were as follows:

	Deferred Costs to Obtain Contracts	Deferred Costs to Fulfill Contracts
Balances at December 31, 2021	$ 207	$ 154
Costs deferred	363	103
Amortization	(226)	(126)
Balances at December 31, 2022	$ 344	$ 131

4. Restructuring Activities

2020 Restructuring Plan

In the third quarter of 2020, the Company commenced the implementation of a restructuring and reduction-in-force plan to reduce the Company's operating costs and address the impact of the COVID-19 pandemic, which ultimately resulted in the reduction of the Company's global workforce by approximately 60 employees, approximately half of which were located outside of the United States. The majority of the planned workforce reductions were substantially completed during 2020.

For the year ended December 31, 2022 and 2021, the Company recorded $266 and $181, respectively, of restructuring-related expenses in connection with the above Restructuring Plans, as well as other organizational restructuring plans, in the accompanying consolidated statements of comprehensive loss.

5. Balance Sheet Components

The following table shows the components of property and equipment as of the dates presented:

		December 31,	
	Estimated Useful Life	2022	2021
Software, including internally developed software	3 years	$ 33,073	$ 31,220
Computer equipment	3 to 4 years	18,622	18,681
Leasehold improvements	Shorter of useful life or lease term	512	4,138
Office equipment, furniture and fixtures	3 to 5 years	630	1,606
Total property and equipment		52,837	55,645
Less: Accumulated depreciation and amortization		(49,624)	(52,023)
Property and equipment, net		$ 3,213	$ 3,622

Computer equipment at December 31, 2021 includes $3.7 million reclassified from the caption "Finance lease right-of-use assets" to conform to the current presentation. Depreciation and amortization of internally developed software for 2022 and 2021 was $2,257 and $3,207, respectively.

The following table shows the components of accrued expenses and other current liabilities as of the dates presented:

	December 31,	
	2022	2021
Accrued salary and payroll-related expenses	$ 1,460	$ 3,091
Accrued liabilities	535	962
Income taxes payable	464	336
Advanced billings and customer credits	1,016	1,123
Other	38	664
Total accrued expenses and other current liabilities	$ 3,513	$ 6,176

Advanced billings and customer credits at December 31, 2021 includes $0.8 million reclassified from the caption "Other" to conform to the current presentation.

6. Fair Value Measurements

Account balances measured at fair value on a recurring basis include the following as of the dates presented:

	December 31,					
	2022			2021		
	Level 1	Level 2	Level 3	Level 1	Level 2	Level 3
Cash equivalents:						
Money market funds	$ 26,645	$ —	$ —	$ 44,930	$ —	$ —

The Company's cash equivalents as of December 31, 2022 and 2021 consisted of money market funds that are classified as level 1. The fair value of the Company's money market funds approximated amortized cost and, as such, there were no unrealized gains or losses on money market funds as of December 31, 2022 and 2021.

7. Borrowing

In April 2020, the Company entered into an original loan agreement with Harvest Small Business Finance, LLC as the lender ("Lender") for a loan in an aggregate principal amount of $3,320 (the "Loan") pursuant to the PPP under the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act") and implemented by the U.S. Small Business Administration (the "SBA"). The Loan was originally evidenced by a Note dated effective as of April 2020, but such Note was replaced by a Note with substantially the same terms, but with an updated effective date of May 2020 to account for a delay in disbursement of funds. The Loan matured two years from the date of first disbursement of the Loan, which occurred in May 2020. The Company received the loan proceeds on May 12, 2020. The Loan bore interest at a rate of 1% per annum. Initially, all payments were deferred through the ten-month anniversary of the date of the Note. The Paycheck Protection Flexibility Act of 2020, P.L. 116-142, extended the deferral period for loan payment to the date that SBA remits the borrower's loan forgiveness amount to the Lender. The PPP provided that borrowers may apply for forgiveness of amounts due under the Loan, with the amount of potential Loan forgiveness to be calculated based on payroll costs, any mortgage interest payments, any covered rent payments and any covered utilities payments during the 10-week period beginning on the date of first disbursement of the Loan. An aggregate principal amount of $3,117 of the Loan was forgiven in January 2022 and the Company repaid the remaining outstanding balance of approximately $200 in February 2022.

8. Shelf Registration and At-the-Market Offering

On March 14, 2019, the Company filed a shelf registration statement on Form S-3 with the SEC, which was declared effective by the SEC on May 10, 2019 and enables the Company to offer its common stock, preferred stock, debt securities, warrants, subscription rights and units having an aggregate offering price of up to $50,000. As part of this shelf registration, the Company entered into an equity distribution agreement with JMP Securities, pursuant to which the Company could offer and sell shares of its common stock having an aggregate offering price of up to $13,000 through an at-the-market offering program administered by JMP Securities. The Company was not required to sell any securities under this offering program. JMP Securities was entitled to compensation of up to 5.0% of the gross proceeds from sales of the Company's common stock pursuant to the equity distribution agreement.

For the year ended December 31, 2020, the Company sold 2,726 shares of its common stock under this equity distribution agreement and received proceeds of $7,500, net of offering costs of $463, at a weighted average sales price of $2.92 per share. For the year ended December 31, 2019, the Company sold 658 shares of its common stock under this equity distribution agreement and received proceeds of $1,643, net of offering costs of $210, at a weighted average sales price of $2.82 per share. During February 2021, the Company sold an additional 1,186 shares of its common stock under the equity distribution agreement and received proceeds of $3,025, net of offering costs of $157, at a weighted average sales price of $2.68 per share. After such sales, no additional amounts were available to be sold under this equity distribution agreement.

On July 15, 2021, the Company increased the size of the remaining $37,000 available on the Initial Registration Statement by an additional $3,000 allowing it to offer securities with an aggregate gross sales price of up to $40,000. The Company also entered into a new equity distribution agreement with JMP Securities (the "July 2021 equity distribution agreement") under which it could sell shares of its common stock up to a gross aggregate sales price of $40,000 through an at-the-market offering program administered by JMP Securities. JMP Securities was entitled to fees of 3% of the gross proceeds from sales of the Company's common stock under this July 2021 equity distribution agreement. In July 2021 the Company sold 4,316 shares of its common stock under the July 2021 equity distribution agreement and received proceeds of $38,800, net of $1,200 in fees to JMP Securities, at a weighted average sales price of $9.27 per share, which resulted in the Company exhausting the amounts available for sale under the 2021 equity distribution agreement.

On August 3, 2021, the Company filed a new shelf registration statement on Form S-3 with the SEC (the "2021 Registration Statement"), which was declared effective by the SEC on August 19, 2021 and provides that the Company may offer its common stock, preferred stock, debt securities, warrants, subscription rights and units having an aggregate offering price of up to $100,000. As part of this 2021 Registration Statement, the Company entered into a third equity distribution agreement with JMP Securities and established a new $50,000 "at-the-market" securities offering facility, pursuant to which, the Company may be able to issue and sell shares of the Company common stock. During the year ended December 31, 2022, the Company sold 1.1 million shares of its common stock under this new equity distribution agreement and received proceeds of approximately $1.3 million, net of offering costs of $0.1 million at a weighted average sales price of $1.33 per share. In accordance with the SEC's Instruction I.B.6 of Registration Statement on Form S-3, the Company is adjusting the maximum aggregate market value of the securities that may be sold pursuant to this current "at-the-market" securities offering facility from $50,000 to approximately $22,800 based on the estimated market capitalization of the Company on the date the Company files this Annual Report until such time when the Company is eligible to conduct such offering in accordance with Instruction I.B.1 of the Registration Statement on Form S-3.

9. Equity Award Plans

In April 2006, the Company's Board of Directors (the "Board") adopted and the stockholders approved the 2006 Stock Option Plan ("2006 Plan"), which provided for the grant of incentive and non-statutory stock options. In February 2013, the Board adopted and the stockholders approved the 2013 Equity Incentive Plan ("2013 Plan"), which became effective on March 21, 2013. At that time, the Company ceased to grant equity awards under the 2006 Plan. Under the 2013 Plan, 643 shares of common stock were originally reserved for issuance. Additionally, all reserved and unissued shares under the 2006 Plan are eligible for issuance under the 2013 Plan. The 2013 Plan authorizes the award of incentive and non-statutory stock options, restricted stock awards, stock appreciation rights, RSUs, performance awards and stock bonuses to the Company's employees, directors, consultants, independent contractors and advisors. On January 1 of each calendar year through 2023, the number of shares of common stock reserved under the 2013 Plan will automatically increase by an amount equal to 5% of the total outstanding shares as of immediately preceding December 31, or such lesser number of shares as determined by the Board. As of December 31, 2022, 734 shares of common stock were available for future grants under the 2013 Plan. Pursuant to the terms of the 2013 Plan, the shares available for issuance increased by 861 shares of common stock on January 1, 2023. The 2013 Plan expired in accordance with its terms in February 2023.

Stock Options

Under the 2006 Plan and the 2013 Plan, the term of options granted may not exceed ten years. Unless the terms of an optionee's stock option agreement provide otherwise, if an optionee's service relationship with the Company, or any of its affiliates, ceases for any reason other than disability or death, the optionee may exercise the vested portion of any options for three months after the date of such termination. If an optionee's service relationship with the Company, or any of its affiliates, ceases due to disability or death (or an optionee dies within a certain period following cessation of service), the optionee or a beneficiary may exercise any vested options for a period of 12 months. In no event, however, may an option be exercised beyond the expiration of its term.

A summary of stock option activity under the 2006 Plan and the 2013 Plan is as follows:

	Options Outstanding			
	Number of Shares	Weighted Average Exercise Price Per Share	Weighted Average Remaining Contractual Term (in Years)	Aggregate Intrinsic Value
Balance at December 31, 2020	389	$ 23.57	5.77	$ —
Options forfeited and cancelled	(6)	43.45	—	
Balance at December 31, 2021	383	$ 23.23	4.85	$ —
Options forfeited and cancelled	(46)	49.87	—	
Balance at December 31, 2022	337	$ 19.59	4.45	$ —
Options exercisable as of December 31, 2022	322	20.31	4.36	—
Options vested as of December 31, 2022	322	20.31	4.36	—
Options vested and expected to vest as of December 31, 2022	337	19.59	4.45	—

The total estimated fair value of options vested was $31 during each of 2022 and 2021.

RSUs

A summary of RSU activity under the 2013 Plan is as follows:

	RSUs Outstanding	
	Number of Shares	Weighted Average Grant Date Fair Value Per Unit
Granted and unvested at December 31, 2020	1,006	$ 2.80
RSUs granted	975	5.84
RSUs vested	(264)	3.08
RSUs cancelled and withheld to cover taxes	(175)	4.16
Granted and unvested at December 31, 2021	1,542	$ 4.60
RSUs granted	1,142	1.90
RSUs vested	(593)	3.72
RSUs cancelled and withheld to cover taxes	(277)	5.91
Granted and unvested at December 31, 2022	1,814	$ 2.99

Employee Stock Purchase Plan

In February 2013, the Board and stockholders approved the 2013 Employee Stock Purchase Plan ("2013 ESPP"), under which 143 shares of common stock were originally reserved for issuance. The 2013 ESPP became effective on March 22, 2013. The 2013 ESPP generally provides for six-month purchase periods and the purchase price for shares of common stock purchased under the 2013 ESPP is 85% of the lesser of the fair market value of the common stock on (1) the first trading day of the applicable offering period and (2) the last trading day of each purchase period in the applicable offering period. On January 1 of each calendar year following the first offering date, the number of shares reserved under the 2013 ESPP automatically increases by an amount equal to 1% of the total outstanding shares as of the immediately preceding December 31, but not to exceed 100 shares. Pursuant to the terms of the 2013 ESPP, the shares available for issuance increased by 100 shares on January 1, 2023. As of December 31, 2022, 346 shares were reserved for issuance under the 2013 ESPP. In 2022 and 2021, 27 and 23 shares, respectively, were issued under the 2013 ESPP. The 2013 ESPP expired in accordance with its terms in February 2023.

10. Stock-Based Compensation Expense

Stock-based compensation expense was allocated as follows:

	Years Ended December 31,	
	2022	2021
	(in thousands)	
Cost of revenues	$ 481	$ 291
Sales and marketing	596	408
Research and development	996	594
General and administrative	1,482	728
	$ 3,555	$ 2,021

For stock-based awards granted by the Company, stock-based compensation cost is measured at grant date based on the fair value of the award and is expensed over the requisite service period. Stock-based compensation capitalized as internally developed software was $113 and $87 for 2022 and 2021, respectively.

Stock Options

There were no grants or exercises of stock options in 2022 or 2021.

As of December 31, 2022, there was $51 of unrecognized compensation cost related to options, which is expected to be recognized over a weighted-average period of 0.5 years.

RSUs

As of December 31, 2022, there was $3,600 of unrecognized compensation cost related to RSUs, which is expected to be recognized over a weighted-average period of 1.5 years. The Company uses the fair market value of the underlying common stock on the dates of grant to determine the fair value of RSUs.

Employee Stock Purchase Plan

The Company estimates the fair value of purchase rights under the 2013 ESPP using the Black-Scholes valuation model. The fair value of each purchase right under the 2013 ESPP is estimated on the date of grant using the Black-Scholes option valuation model and the straight-line attribution approach with assumptions substantially similar to those used for the valuation of stock option awards, with the exception of the expected life. The expected life is estimated to be six months, which is consistent with the purchase periods under the 2013 ESPP.

11. Leases

Operating and Finance Leases

The Company's primary operating lease is for space at a data center which was renewed in April 2022 and expires in 2025. The lease for the Company's San Francisco, California headquarters, the Company's largest office, expired in July 2022. Effective as of August 1, 2022, the Company entered into an agreement for a new, significantly smaller headquarters office space in San Francisco, California under a short-term lease.

As of December 31, 2022 and 2021, the Company had net operating lease ROU assets of $3,844 and $1,660, respectively. Operating lease costs, consisting primarily of rental expense, were approximately $3,654 and $6,085 for the years ended December 31, 2022 and 2021, respectively. Variable rent expense was not material for the years ended December 31, 2022 or 2021.

As of December 31, 2022, the weighted-average rate used in discounting the lease liabilities for ROU operating leases was 6.0% and the weighted average remaining lease term for ROU operating leases was 2.2 years. The maturities of operating lease liabilities as of December 31, 2022 are as follows:

	Operating Leases
2023	$ 1,822
2024	1,822
2025	455
Total lease payments	4,099
Less: Amount representing imputed interest	(255)
Present value of lease liabilities	3,844
Less: Current portion of lease liabilities	(1,645)
Non-current portion of lease liabilities	$ 2,199

Supplemental cash flow information related to operating leases was as follows:

	Year Ended December 31, 2022	Year Ended December 31, 2021
Cash paid for amounts included in the measurement of lease liabilities:		
Financing cash flows from finance leases	$ —	$ 15
Operating cash flows from operating leases	3,974	6,562
ROU assets obtained in exchange for lease liabilities:		
Operating lease liabilities	$ 5,015	$ —

Subleases

The Company sublet portions of its San Francisco office space which expired during 2022. Income from this sublease agreement was included in other income, net, on the accompanying consolidated statements of comprehensive loss. Sublease income for the years ended December 31, 2022 and 2021 was $587 and $1,084, respectively.

12. Income Taxes

The components of the Company's loss before provision for (benefit from) income taxes are as follows:

	Years Ended December 31, 2022	Years Ended December 31, 2021
United States of America	$ (18,455)	$ (16,192)
International	533	3,114
Loss before provision for (benefit from) income taxes	$ (17,922)	$ (13,078)

The components of the provision for (benefit from) income taxes were as follows:

	Years Ended December 31, 2022	Years Ended December 31, 2021
Current income tax provision:		
State	$ 25	$ 39
Foreign	232	(179)
Total current income tax provision	257	(140)
Deferred income tax benefit:		
Foreign	48	6
Total deferred income tax benefit	48	6
Provision for (benefit from) income taxes	$ 305	$ (134)

The differences in the total provision for (benefit from) income taxes that would result from applying the 21% federal statutory rate in 2022 and 2021 to the loss before provision for income taxes and the reported provision for income taxes were as follows:

	Years Ended December 31, 2022	Years Ended December 31, 2021
Tax benefit at U.S. statutory rate	$ (3,763)	$ (2,746)
Change in valuation allowance	6,009	4,547
Stock-based compensation	(6)	46
Uncertain tax positions	(32)	(194)
State income taxes, net of federal benefit	(1,288)	(1,223)
Foreign income and withholding taxes	8	(560)
Other permanent differences	81	52
PPP loan forgiveness	(667)	—
Provision to return adjustments	(37)	(56)
Provision for (benefit from) income taxes	$ 305	$ (134)

Major components of the Company's deferred tax assets and liabilities as of December 31, 2022 and 2021 were as follows:

	December 31,	
	2022	2021
Non-current deferred tax assets:		
Net operating loss	$ 37,783	$ 32,403
Research and development credits	9,820	9,820
Other credits	4,165	4,164
Operating lease liabilities	1,037	566
Stock-based compensation	1,164	476
Property and equipment and intangible assets	—	653
Capitalized research and development	912	—
Accruals and reserves	133	387
Gross non-current deferred tax assets	55,014	48,469
Right-of-use assets, operating leases	(1,037)	(471)
Property and equipment and intangible assets	(23)	—
Total non-current deferred tax liabilities	(1,060)	(471)
Total deferred tax assets	53,954	47,998
Valuation allowance	(53,924)	(47,915)
Net deferred tax assets (liabilities)	$ 30	$ 83

The Tax Reform Act of 1986, as amended, imposes restrictions on the utilization of net operating losses and tax credit carryforwards in certain situations where changes occur in the stock ownership of a corporation. Utilization of a domestic net operation loss or tax credit carryforward may be subject to a substantial limitation due to ownership changes that may have occurred or that could occur in the future, as required by Internal Revenue Code Section 382 ("IRC Section 382"), as well as similar state provisions. Accordingly, a company's ability to use net operating losses may be limited as prescribed under IRC Section 382. Events which may cause limitations in the amount of the net operating losses that the Company may use in any one year include, but are not limited to, a cumulative ownership change of more than 50% over a three-year period. The Company last assessed the application of IRC Section 382 during the fourth quarter of 2017 and concluded that no such limitation currently applies. These conclusions are monitored in future periods as circumstances dictate, such as significant changes in the Company's stock ownership. In the event the Company experiences any subsequent changes in ownership, the amount of net operating losses and research and development credit carryovers available in any taxable year could be limited and may expire unutilized.

As of December 31, 2022, the Company had federal and state net operating loss carryforwards of approximately $151,712 and $132,925, respectively. The federal net operating loss carryforward will begin expiring in 2027 and the state net operating loss carryforward began expiring in 2022. As of December 31, 2022, the Company had federal and state research and development credits of approximately $6,123 and $6,451, respectively. The federal research and development credits will begin expiring in 2026. The state research and development credits are not currently subject to expiration.

The Company has recorded a full valuation allowance against its otherwise recognizable deferred income tax assets as of December 31, 2022 and 2021 (except for the deferred income tax assets associated with certain of the Company's foreign subsidiaries). The Company has determined, after evaluating all positive and negative historical and prospective evidence, that it is more likely than not that the deferred income tax assets will not be realized (except for those associated with certain of the Company's foreign subsidiaries). The valuation allowance increased by $6,009 and $4,547 for the years ended December 31, 2022, and December 31, 2021, respectively.

The Company files federal, state and foreign income tax returns in jurisdictions with varying statutes of limitations. In the normal course of business, the Company is subject to examination by taxing authorities throughout the world. These audits include questioning the timing and amount of deduction, the nexus of income among various tax jurisdictions and compliance with state, local and foreign tax laws. The Company is not currently under any examination by any federal, state or foreign tax authorities. Because of net operating loss and credit carryforwards, all of the Company's tax years dating to inception in 2006 remain open to examination.

Uncertain Tax Positions

As of December 31, 2022 and 2021, the Company had uncertain tax positions of $985 and $1,079, respectively, that if recognized would impact the annual effective tax rate. During 2022 and 2021, the Company did not have any material interest or penalties related to uncertain tax positions. The aggregate changes in the balance of gross uncertain tax positions were as follows:

Ending balance as of December 31, 2020	$	9,347
Decrease in balances related to lapses in statutes of limitations		(292)
Ending balance as of December 31, 2021		9,055
Decrease in balances related to lapses in statutes of limitations		(94)
Ending balance as of December 31, 2022	$	8,961

The Company does not anticipate that the amount of uncertain tax positions relating to tax positions existing at December 31, 2022 will materially increase or decrease within the next twelve months.

13. Net Loss Per Share Available to Common Stockholders

Basic net loss per share of common stock is calculated by dividing the net loss available to common stockholders by the weighted-average number of shares of common stock outstanding for the period. Diluted net loss per share of common stock is computed by dividing the net loss using the weighted-average number of shares of common stock, excluding common stock subject to repurchase, and, if dilutive, potential shares of common stock outstanding during the period. Basic and diluted net loss per share was the same for all periods presented, as the impact of all potentially dilutive securities outstanding was anti-dilutive.

The following table presents the calculation of basic and diluted net loss per share:

	Years Ended December 31,	
	2022	**2021**
Numerator:		
Net loss available to common stockholders	$ (18,227)	$ (12,944)
Denominator:		
Weighted average number of shares, basic and diluted	15,891	12,846
Net loss per share available to common stockholders:		
Basic and diluted net loss per common share available to common stockholders	$ (1.15)	$ (1.01)

The following table presents the potential shares of common stock outstanding that were excluded from the computation of diluted net loss per share available to common stockholders for the periods presented because including them would have been anti-dilutive:

	Years Ended December 31,	
	2022	**2021**
Options to purchase common stock	337	383
Unvested RSUs	1,814	1,542
Total	2,151	1,925

14. Segment Reporting

The Company defines the term “chief operating decision maker” to be the Chief Executive Officer. The Chief Executive Officer reviews the financial information presented on a consolidated basis for purposes of allocating resources and evaluating of financial performance. Accordingly, the Company has determined that it operates as a single reporting and operating segment.

15. Commitments and Contingencies

Legal Matters

From time to time, the Company may be involved in lawsuits, claims, investigations and proceedings, consisting of intellectual property, commercial, employment and other matters, which arise in the ordinary course of business. In accordance with GAAP, the Company records a liability when it is both probable that a liability has been incurred and the amount of the loss can be reasonably estimated. These provisions are reviewed at least quarterly and adjusted to reflect the impact of negotiations, settlements, ruling, advice of legal counsel and other information and events pertaining to a particular case. Litigation is inherently unpredictable. If any unfavorable ruling was to occur in any specific period or if a loss becomes probable and estimable, there exists the possibility of a material adverse impact on the Company's results of operations, financial position or cash flows. As of December 31, 2022, no material amounts are recorded related to legal proceedings on the consolidated balance sheet.

Indemnification

The Company enters into standard indemnification agreements in the ordinary course of business. Pursuant to the agreements, each party may indemnify, defend and hold the other party harmless with respect to such claim, suit or proceeding brought against it by a third party alleging that the indemnifying party's intellectual property infringes upon the intellectual property of the third party, or results from a breach of the indemnifying party's representations and warranties or covenants, or that results from any acts of negligence or willful misconduct. The term of these indemnification agreements is generally perpetual any time after execution of the agreement. The maximum potential amount of future payments the Company could be required to make under these indemnification agreements is unlimited. Historically, the Company has not been obligated to make significant payments for these obligations and no liabilities have been recorded for these obligations on the consolidated balance sheets as of December 31, 2022 and 2021.

The Company also indemnifies its officers and directors for certain events or occurrences, subject to certain limits, while the officer or director is or was serving at the Company's request in such capacity. The maximum amount of potential future indemnification is unlimited; however, the Company has a directors' and officers' insurance policy that enables the Company to recover a portion of any future amounts paid. Historically, the Company has not been obligated to make any payments for these obligations and no liabilities have been recorded for these obligations on the consolidated balance sheets as of December 31, 2022 and 2021.

Other Contingencies

The Company is subject to claims and assessments from time to time in the ordinary course of business. The Company's management does not believe that any such matters, individually or in the aggregate, will have a material adverse effect on the Company's financial position, results of operations or cash flows.

16. Employee Benefit Plans

The Company sponsors a 401(k) defined contribution plan covering all employees in the United States. The Company made contributions to this plan of $91 in 2022 and made no contributions to this plan in 2021.

The Company also sponsors a statutorily required defined contribution pension plan covering all employees in the United Kingdom. The Company made contributions to this plan of $69 and $74 for the years ended December 31, 2022 and 2021, respectively.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Company has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, on February 23, 2023.

MARIN SOFTWARE INCORPORATED

By: /s/ Robert Bertz

Robert Bertz
Chief Financial Officer

POWER OF ATTORNEY

KNOW ALL BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Christopher A. Lien and Robert Bertz, and each of them, as his or her true and lawful attorneys-in-fact and agents, each with the full power of substitution, for him or her and in his or her name, place or stead, in any and all capacities, to sign any and all amendments to this report, and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or their or his or her substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons in the capacities and on the date indicated:

Name	Title	Date
/s/ Christopher A. Lien Christopher A. Lien	Chief Executive Officer and Director (Principal Executive Officer)	February 23, 2023
/s/ Robert Bertz Robert Bertz	Chief Financial Officer (Principal Financial and Accounting Officer)	February 23, 2023
/s/ Brian Kinion Brian Kinion	Director	February 23, 2023
/s/ L. Gordon Crovitz L. Gordon Crovitz	Director	February 23, 2023
/s/ Donald Hutchison Donald Hutchison	Director	February 23, 2023
/s/ Daina Middleton Daina Middleton	Director	February 23, 2023
/s/ Diena Lee Mann Diena Lee Mann	Director	February 23, 2023

Exhibit 21.1

List of Subsidiaries of Marin Software Incorporated as of December 31, 2022

Wholly-Owned Subsidiary	Jurisdiction
Marin Software Irish Holding Unlimited Company	Ireland
Marin Software Limited	Ireland
Marin Software Limited	United Kingdom
Marin Software GmbH	Germany
Marin Software SARL	France
Marin Software Pte. Ltd.	Singapore
Marin Software Pty Ltd.	Australia
Marin Software (Shanghai) Co., Ltd.	People’s Republic of China

Exhibit 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We have issued our report dated February 23, 2023, with respect to the consolidated financial statements included in the Annual Report of Marin Software Incorporated on Form 10-K for the year ended December 31, 2022. We consent to the incorporation by reference of said report in the Registration Statements of Marin Software Incorporated on Forms S-3 (File No. 333-258390, File No. 333-230275, File No. 333-202240 and File No. 333-196818) and Forms S-8 (File No. 333-269538, File No. 333-262972, File No. 333-253550, File No. 333-237355, File No. 333-230274, File No. 333-223332, File No. 333-216349, File No. 333-209651, File No. 333-202223, File No. 333-194250 and File No. 333187459).

/s/ GRANT THORNTON LLP

San Jose, CA
February 23, 2023

Exhibit 31.1

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER UNDER SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Christopher A. Lien, certify that:

1. I have reviewed this Annual Report on Form 10-K of Marin Software Incorporated;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
   a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
   b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
   c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
   d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
   a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
   b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 23, 2023

/s/ Christopher A. Lien

Christopher A. Lien
Chief Executive Officer
(Principal Executive Officer)

Exhibit 31.2

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER UNDER SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Robert Bertz, certify that:

1. I have reviewed this Annual Report on Form 10-K of Marin Software Incorporated;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
    a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
    b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
    c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
    d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
    a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
    b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 23, 2023

/s/ Robert Bertz

Robert Bertz
Chief Financial Officer
(Principal Financial Officer and Principal Accounting Officer)

Exhibit 32.1

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER
PURSUANT TO 18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

I, Christopher A. Lien, certify pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

(1) the Annual Report of Marin Software Incorporated on Form 10-K for the fiscal year ended December 31, 2022 (the "***Report***") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of Marin Software Incorporated for the periods presented therein.

Date: February 23, 2023

By: /s/ Christopher A. Lien
Christopher A. Lien
Chief Executive Officer
(Principal Executive Officer)

Exhibit 32.2

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER
PURSUANT TO 18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

I, Robert Bertz, certify pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

(1) the Annual Report of Marin Software Incorporated on Form 10-K for the fiscal year ended December 31, 2022 (the "***Report***") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of Marin Software Incorporated for the periods presented therein.

Date: February 23, 2023

By: /s/ Robert Bertz
Robert Bertz
Chief Financial Officer
(Principal Financial Officer and Principal Accounting Officer)