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

FORM 10-Q

☒ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the quarterly period ended September 30, 2021

or

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from ___ to ___

Commission File Number: 001-37527

XCEL BRANDS, INC.

(Exact name of registrant as specified in its charter)

Delaware	76-0307819
(State or Other Jurisdiction of Incorporation or Organization)	(I.R.S. Employer Identification No.)

1333 Broadway, 10th Floor, New York, NY 10018
(Address of Principal Executive Offices)

(347) 727-2474
(Issuer's Telephone Number, Including Area Code)

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

Title of each class	Trading Symbol	Name of each exchange on which registered
Common Stock, $0.001 par value per share	XELB	NASDAQ Global Market

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

As of October 27, 2021, there were 19,558,813 shares of common stock, $.001 par value per share, of the issuer outstanding.

XCEL BRANDS, INC.

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PART I. FINANCIAL INFORMATION

ITEM 1. FINANCIAL STATEMENTS

Xcel Brands, Inc. and Subsidiaries
Unaudited Condensed Consolidated Balance Sheets
(in thousands, except share and per share data)

	September 30, 2021 (Unaudited)	December 31, 2020 (Note 1)
Assets		
Current Assets:		
Cash and cash equivalents	$ 3,981	$ 4,957
Accounts receivable, net of allowances of $1,284 and $1,151, respectively	10,949	8,889
Inventory	3,430	1,216
Prepaid expenses and other current assets	1,711	1,085
Total current assets	20,071	16,147
Non-current Assets:		
Property and equipment, net	3,481	3,367
Operating lease right-of-use assets	6,831	8,668
Trademarks and other intangibles, net	99,859	93,535
Restricted cash	739	1,109
Other assets	222	228
Total non-current assets	111,132	106,907
Total Assets	**$ 131,203**	**$ 123,054**
Liabilities and Equity		
Current Liabilities:		
Accounts payable, accrued expenses and other current liabilities	$ 5,444	$ 4,442
Accrued payroll	683	973
Current portion of operating lease obligations	1,315	2,101
Current portion of long-term debt	4,998	2,800
Total current liabilities	12,440	10,316
Long-Term Liabilities:		
Long-term portion of operating lease obligations	7,295	8,469
Long-term debt, less current portion	20,233	13,838
Contingent obligations	7,539	900
Deferred tax liabilities, net	1,038	3,052
Other long-term liabilities	591	224
Total long-term liabilities	36,696	26,483
Total Liabilities	49,136	36,799
Commitments and Contingencies		
Equity:		
Preferred stock, $.001 par value, 1,000,000 shares authorized, none issued and outstanding	—	—
Common stock, $.001 par value, 50,000,000 shares authorized, and 19,541,921 and 19,260,862 shares issued and outstanding at September 30, 2021 and December 31, 2020, respectively	20	19
Paid-in capital	102,936	102,324
Accumulated deficit	(21,836)	(16,595)
Total Xcel Brands, Inc. stockholders' equity	81,120	85,748
Noncontrolling interest	947	507
Total Equity	82,067	86,255
Total Liabilities and Equity	**$ 131,203**	**$ 123,054**

See Notes to Unaudited Condensed Consolidated Financial Statements.

Xcel Brands, Inc. and Subsidiaries
Unaudited Condensed Consolidated Statements of Operations
(in thousands, except share and per share data)

	For the Three Months Ended September 30, 2021	For the Three Months Ended September 30, 2020	For the Nine Months Ended September 30, 2021	For the Nine Months Ended September 30, 2020
Revenues				
Net licensing revenue	$ 6,854	$ 5,236	$ 17,385	$ 15,378
Net sales	4,407	2,155	12,449	6,590
Net revenue	11,261	7,391	29,834	21,968
Cost of goods sold (sales)	2,865	1,270	7,763	3,923
Gross profit	8,396	6,121	22,071	18,045
Operating costs and expenses				
Salaries, benefits and employment taxes	4,185	2,968	12,286	9,798
Other selling, general and administrative expenses	3,463	2,159	9,591	7,153
Stock-based compensation	163	49	754	780
Depreciation and amortization	1,891	1,437	4,949	4,069
Government assistance - Paycheck Protection Program and other	—	(176)	—	(1,816)
Asset impairment charges	—	31	—	113
Total operating costs and expenses	9,702	6,468	27,580	20,097
Other income	—	46	—	46
Operating loss	(1,306)	(301)	(5,509)	(2,006)
Interest and finance expense				
Interest expense - term loan debt	565	303	1,363	926
Other interest and finance charges (income), net	23	1	127	(29)
Loss on extinguishment of debt	—	—	821	—
Total interest and finance expense	588	304	2,311	897
Loss before income taxes	(1,894)	(605)	(7,820)	(2,903)
Income tax benefit	(535)	(145)	(2,019)	(269)
Net loss	**(1,359)**	**(460)**	**(5,801)**	**(2,634)**
Less: Net loss attributable to noncontrolling interest	(223)	(26)	(560)	(95)
Net loss attributable to Xcel Brands, Inc. stockholders	**$ (1,136)**	**$ (434)**	**$ (5,241)**	**$ (2,539)**
Loss per share attributable to Xcel Brands, Inc. common stockholders:				
Basic and diluted net loss per share	$ (0.06)	$ (0.02)	$ (0.27)	$ (0.13)
Weighted average number of common shares outstanding:				
Basic and diluted weighted average common shares outstanding	19,541,774	19,231,040	19,418,469	19,078,453

See Notes to Unaudited Condensed Consolidated Financial Statements.

Xcel Brands, Inc. and Subsidiaries
Unaudited Condensed Consolidated Statements of Equity
(in thousands, except share data)

	Xcel Brands, Inc. Stockholders					
	Common Stock					
	Number of Shares	Amount	Paid-In Capital	Accumulated Deficit	Noncontrolling Interest	Total Equity
Balance as of December 31, 2019	18,866,417	$ 19	$ 101,736	$ (3,659)	$ 356	$ 98,452
Shares issued to employees related to stock grants for bonus payments	336,700	—	220	—	—	220
Shares repurchased from employees in exchange for withholding taxes	(155,556)	—	(102)	—	—	(102)
Compensation expense related to stock options and restricted stock	—	—	91	—	—	91
Net loss	—	—	—	(805)	(33)	(838)
Balance as of March 31, 2020	19,047,561	19	101,945	(4,464)	323	97,823
Compensation expense related to stock options and restricted stock	—	—	55	—	—	55
Shares issued to employees related to restricted stock grants	270,728	—	265	—	—	265
Shares repurchased from employees in exchange for withholding taxes	(87,249)	—	(85)	—	—	(85)
Additional investment in Longaberger Licensing, LLC by non-controlling interest holder	—	—	—	—	300	300
Net loss	—	—	—	(1,300)	(36)	(1,336)
Balance as of June 30, 2020	19,231,040	19	102,180	(5,764)	587	97,022
Compensation expense related to stock options and restricted stock	—	—	56	—	—	56
Net loss	—	—	—	(434)	(26)	(460)
Balance as of September 30, 2020	19,231,040	$ 19	$ 102,236	$ (6,198)	$ 561	$ 96,618
Balance as of December 31, 2020	19,260,862	$ 19	$ 102,324	$ (16,595)	$ 507	$ 86,255
Compensation expense related to stock options and restricted stock	—	—	169	—	—	169
Shares issued on exercise of stock options, net	1,667	—	—	—	—	—
Net loss	—	—	—	(2,547)	(81)	(2,628)
Balance as of March 31, 2021	19,262,529	19	102,493	(19,142)	426	83,796
Compensation expense related to stock options and restricted stock	—	—	52	—	—	52
Shares issued to executive related to stock grants for bonus payments	181,179	1	282	—	—	283
Shares issued to consultants related to restricted stock grants	14,045	—	25	—	—	25
Shares issued to directors related to restricted stock grants	50,000	—	—	—	—	—
Shares issued on exercise of stock options	23,102	—	—	—	—	—
Net loss	—	—	—	(1,558)	(256)	(1,814)
Balance as of June 30, 2021	19,530,855	20	102,852	(20,700)	170	82,342
Compensation expense related to stock options and restricted stock	—	—	59	—	—	59
Shares issued to consultants related to restricted stock grants	9,399	—	25	—	—	25
Shares issued on exercise of stock options	1,667	—	—	—	—	—
Additional investment in Longaberger Licensing, LLC by non-controlling interest holder	—	—	—	—	1,000	1,000
Net loss	—	—	—	(1,136)	(223)	(1,359)
Balance as of September 30, 2021	19,541,921	$ 20	$ 102,936	$ (21,836)	$ 947	$ 82,067

See Notes to Unaudited Condensed Consolidated Financial Statements.

Xcel Brands, Inc. and Subsidiaries
Unaudited Condensed Consolidated Statements of Cash Flows
(in thousands)

	For the Nine Months Ended September 30, 2021	2020
Cash flows from operating activities		
Net loss	$ (5,801)	$ (2,634)
Adjustments to reconcile net loss to net cash (used in) provided by operating activities:		
Depreciation and amortization expense	4,949	4,069
Asset impairment charges	—	113
Amortization of deferred finance costs included in interest expense	211	72
Stock-based compensation	754	780
Provision for doubtful accounts	132	1,054
Loss on extinguishment of debt (non-cash portion)	454	—
Deferred income tax benefit	(2,019)	(269)
Net gain on sale of assets	—	(46)
Changes in operating assets and liabilities:		
Accounts receivable	(2,192)	1,380
Inventory	(2,214)	176
Prepaid expenses and other assets	(620)	187
Accounts payable, accrued expenses and other current liabilities	572	(2,403)
Cash paid in excess of rent expense	(122)	(276)
Other liabilities	367	—
Net cash (used in) provided by operating activities	(5,529)	2,203
Cash flows from investing activities		
Cash consideration for acquisition of Lori Goldstein assets	(3,661)	—
Net proceeds from sale of assets	—	46
Purchase of other intangible assets	(39)	—
Purchase of property and equipment	(1,049)	(700)
Net cash used in investing activities	(4,749)	(654)
Cash flows from financing activities		
Proceeds from exercise of stock options	5	—
Shares repurchased including vested restricted stock in exchange for withholding taxes	—	(187)
Cash contribution from non-controlling interest	1,000	300
Proceeds from revolving loan debt	2,498	—
Proceeds from long-term debt	25,000	—
Payment of deferred finance costs	(1,204)	(20)
Payment of long-term debt	(18,000)	(1,500)
Payment of breakage fees associated with extinguishment of long-term debt	(367)	—
Net cash provided by (used in) financing activities	8,932	(1,407)
Net (decrease) increase in cash, cash equivalents, and restricted cash	(1,346)	142
Cash, cash equivalents, and restricted cash at beginning of period	6,066	5,750
Cash, cash equivalents, and restricted cash at end of period	$ 4,720	$ 5,892
Reconciliation to amounts on consolidated balance sheets:		
Cash and cash equivalents	$ 3,981	$ 4,783
Restricted cash	739	1,109
Total cash, cash equivalents, and restricted cash	$ 4,720	$ 5,892
Supplemental disclosure of non-cash activities:		
Operating lease right-of-use assets	$ (722)	$ 797
Operating lease obligations	$ (722)	$ 797
Contingent obligation related to acquisition of Lori Goldstein assets at fair value	$ 6,639	$ —
Liability for equity-based bonuses and other equity-based payments	$ 140	$ 93
Supplemental disclosure of cash flow information:		
Cash paid during the period for interest	$ 1,346	$ 1,092
Cash paid during the period for income taxes	$ 18	$ 58

See Notes to Unaudited Condensed Consolidated Financial Statements.

XCEL BRANDS, INC. AND SUBSIDIARIES
Notes to Unaudited Condensed Consolidated Financial Statements
September 30, 2021
(Unaudited)

1. Nature of Operations, Background, and Basis of Presentation

The accompanying condensed consolidated balance sheet as of December 31, 2020 (which has been derived from audited financial statements) and the unaudited interim condensed consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States (“GAAP”) for interim financial information and pursuant to the instructions to Form 10-Q and Article 8 of Regulation S-X promulgated by the United States Securities and Exchange Commission (“SEC”). Certain information or footnote disclosures normally included in financial statements prepared in accordance with GAAP have been condensed or omitted, pursuant to the rules and regulations of the SEC for interim financial reporting. Accordingly, they do not include all the information and footnotes necessary for a comprehensive presentation of financial position, results of operations, or cash flows.

In the opinion of management, the accompanying unaudited condensed consolidated financial statements were prepared following the same policies and procedures used in the preparation of the audited consolidated financial statements and reflect all adjustments (consisting of normal recurring adjustments) necessary to present fairly the results of operations, financial position, and cash flows of Xcel Brands, Inc. and its subsidiaries (the “Company” or "Xcel"). The results of operations for the interim periods presented herein are not necessarily indicative of the results for the entire fiscal year or for any future interim periods. These unaudited condensed consolidated financial statements should be read in conjunction with the Company’s Annual Report on Form 10-K for the year ended December 31, 2020, as filed with the SEC on April 23, 2021.

Certain reclassifications have been made to prior year comparable period financial statements to conform to classifications used in the current year – specifically, the classification and aggregation / disaggregation of certain types of operating costs and expenses, and the disaggregation of the components of interest and finance expense. These reclassifications had no impact on total operating costs and expenses, total interest and finance expense, net loss, stockholders’ equity, or cash flows as previously reported.

The Company is a media and consumer products company engaged in the design, production, marketing, live streaming, wholesale distribution, and direct-to-consumer sales of branded apparel, footwear, accessories, fine jewelry, home goods and other consumer products, and the acquisition of dynamic consumer lifestyle brands. Currently, the Company’s brand portfolio consists of the Isaac Mizrahi brands (the "Isaac Mizrahi Brand"), the LOGO by Lori Goldstein brand, the Judith Ripka brands (the "Ripka Brand"), the Halston brands (the "Halston Brands"), the C Wonder brands (the "C Wonder Brand"), and other proprietary brands. The Company also manages the Longaberger brand (the “Longaberger Brand”) through its 50% ownership interest in Longaberger Licensing, LLC; the Company consolidates Longaberger Licensing, LLC and recognizes noncontrolling interest for the remaining ownership interest held by a third party. The Company acquired the LOGO by Lori Goldstein brand, and the various labels under the brand, on April 1, 2021 (see Note 2).

The Company designs, produces, markets, and distributes products, licenses its brands to third parties, and generates licensing revenues. The Company and its licensees distribute through an omni-channel retail sales strategy, which includes distribution through interactive television, digital live-stream shopping, brick-and-mortar retail, wholesale, and e-commerce channels to be everywhere its customers shop.

Recently Adopted Accounting Pronouncements

On January 1, 2021, the Company adopted Accounting Standards Update ("ASU") No. 2019-12, “Income Taxes (Topic 740): Simplifying the Accounting for Income Taxes.” This ASU removes certain exceptions to the general principles in Topic 740, including, but not limited to, intraperiod tax allocations and interim period tax calculations. The ASU also provides additional clarification and guidance related to recognition of franchise taxes and changes in tax laws. The adoption of this new guidance did not have any impact on the Company’s results of operations, cash flows, and financial condition.

2. Acquisitions

Acquisition of LOGO by Lori Goldstein Brand

On March 30, 2021, the Company and its wholly owned subsidiary, Gold Licensing, LLC, entered into an asset purchase agreement (the "Asset Purchase Agreement") with Lori Goldstein, Ltd. (the "Seller") and Lori Goldstein ("Shareholder"), pursuant to which the Company agreed to acquire, and the Seller and Shareholder agreed to sell, certain assets of the Seller, including the "LOGO by Lori Goldstein" trademark and other intellectual property rights relating thereto. On April 1, 2021 (the "Closing Date"), the Company completed the acquisition of the assets specified in the Asset Purchase Agreement.

Pursuant to the Asset Purchase Agreement, on the Closing Date, the Company delivered $1.6 million in cash consideration to the Seller. In addition, the Company was required to deliver $2.0 million in cash consideration to the Seller on the earlier of (i) the Company's receipt of the first royalty payment from QVC, Inc. in respect of the acquired assets, or (ii) July 29, 2021. This payment was made in July 2021.

In addition to the consideration described above, the Seller is eligible to earn additional consideration of up to $12.5 million (the "Lori Goldstein Earn-Out"), which would be payable, in cash, within 45 days after the end of each applicable calendar year during the six calendar year period commencing 2021 in an amount equal to 75% percent of the Royalty Contribution (as defined in the Asset Purchase Agreement) for such calendar year. The Company recorded a contingent obligation of $6.6 million related to the Lori Goldstein Earn-Out, based on the difference between the fair value of the acquired assets of the LOGO by Lori Goldstein brand and the total consideration paid, in accordance with the guidance in Accounting Standards Codification ("ASC") Subtopic 805-50.

The LOGO by Lori Goldstein brand acquisition was accounted for as an asset purchase. The following represents the aggregate purchase price of $10.3 million:

($ in thousands)		
Cash paid at closing	$	1,600
Cash paid subsequent to closing		2,045
Total direct initial consideration		3,645
Direct transaction expenses		16
Contingent obligation (Lori Goldstein Earn-Out)		6,639
Total consideration	$	10,300

The aggregate purchase price has been allocated entirely to the trademarks of the brand. Such trademarks have been determined by management to have a finite useful life, and accordingly, amortization is recorded in the Company's condensed consolidated statements of operations. The Lori Goldstein trademarks are being amortized on a straight-line basis over their expected useful life of four years.

Upon the consummation of the acquisition of the LOGO by Lori Goldstein brand as described above, the Company incurred cash bonuses totaling $175,000 to certain members of the Company's senior management (including $100,000 to the Chief Executive Officer, and $25,000 each to the Chief Financial Officer, President and Chief Operating Officer, and

Executive Vice President of Business Development and Treasury), such success-related bonuses having been approved by the Board of Directors on March 18, 2021. These bonuses were subsequently paid in May 2021.

Additionally, concurrent with the acquisition, the Company also entered into a 10-year employment agreement with the Shareholder to serve as the LOGO by Lori Goldstein brand's Chief Creative Officer and Spokesperson, with a base salary of $0.9 million per annum through December 31, 2021 and $1.2 million per annum thereafter, and the opportunity to earn additional incentives based on the future net royalties related to the brand. Further, the Company concurrently entered into a consulting agreement with the Seller to provide creative advice and consultation, for a fee of $0.6 million per annum through December 31, 2021 and $0.8 million per annum thereafter.

3. Trademarks and Other Intangibles

Trademarks and other intangibles, net consist of the following:

($ in thousands)	Weighted Average Amortization Period	September 30, 2021 Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
Trademarks (indefinite-lived)	n/a	$ 44,500	$ —	$ 44,500
Trademarks (finite-lived)	15 years	20,386	6,674	13,712
Trademarks (finite-lived)	18 years	38,194	5,786	32,408
Trademarks (finite-lived)	4 years	10,300	1,287	9,013
Other intellectual property	7 years	762	619	143
Copyrights and other intellectual property	9 years	229	146	83
Total		**$ 114,371**	**$ 14,512**	**$ 99,859**

($ in thousands)	Weighted Average Amortization Period	December 31, 2020 Gross Carrying Amount	Accumulated Amortization	Net Carrying Amount
Trademarks (indefinite-lived)	n/a	$ 44,500	$ —	$ 44,500
Trademarks (finite-lived)	15 years	20,386	5,640	14,746
Trademarks (finite-lived)	18 years	38,194	4,192	34,002
Other intellectual property	7 years	762	537	225
Copyrights and other intellectual property	10 years	190	128	62
Total		**$ 104,032**	**$ 10,497**	**$ 93,535**

Amortization expense for intangible assets was approximately $1.56 million for the three-month period ended September 30, 2021 (the "current quarter") and was approximately $1.14 million for the three-month period ended September 30, 2020 (the "prior year quarter"). Amortization expense for intangible assets was approximately $4.02 million for the nine-month period ended September 30, 2021 (the "current nine months") and was approximately $3.42 million for the nine-month period ended September 30, 2020 (the "prior year nine months").

The trademarks related to the Isaac Mizrahi Brand have been determined to have indefinite useful lives and, accordingly, no amortization has been recorded for these assets.

XCEL BRANDS, INC. AND SUBSIDIARIES
Notes to Unaudited Condensed Consolidated Financial Statements
September 30, 2021
(Unaudited)

Estimated future amortization expense related to finite-lived intangible assets over the remaining useful lives is as follows:

($ in thousands) Year Ending December 31,	Amortization Expense
2021 (October 1 through December 31)	$ 1,555
2022	6,220
2023	6,220
2024	6,199
2025	4,257
Thereafter	30,908
Total	$ 55,359

4. Significant Contracts and Concentrations

QVC Agreements

Under the Company's agreements with Qurate Retail Group ("Qurate"), collectively referred to as the QVC Agreements, Qurate is required to pay the Company fees based primarily on a percentage of its net sales of Isaac Mizrahi, Judith Ripka, Lori Goldstein, and Longaberger branded merchandise. Qurate royalty revenue represents a significant portion of the Company's total revenues.

- Revenues from the QVC Agreements totaled $6.05 million and $4.70 million for the current and prior year quarter, respectively, representing approximately 54% and 64% of the Company's total net revenues for the current and prior year quarter, respectively.

- Revenues from the QVC Agreements totaled $15.24 million and $13.44 million for the current and prior year nine months, respectively, representing approximately 51% and 61% of the Company's total net revenues for the current and prior year nine months, respectively.

- As of September 30, 2021 and December 31, 2020, the Company had receivables from Qurate of $6.19 million and $4.46 million, respectively, representing approximately 57% and 50% of the Company's total accounts receivable, respectively.

5. Allowance for Doubtful Accounts

Accounts receivable are presented on the Company's condensed consolidated balance sheets net of allowances of $1,284,000 and $1,151,000 as of September 30, 2021 and December 31, 2020, respectively. The Company recognized bad debt expense of $0 and $371,000 for the current quarter and prior year quarter, respectively, and recognized bad debt expense of $132,000 and $1,054,000 for the current nine months and prior year nine months, respectively.

The bad debt expense amounts for the current nine months, prior year quarter, and prior year nine months include $132,000, $385,000, and $971,000, respectively, of bad debt expense related to the bankruptcy of and economic impact on certain retail customers due to the COVID-19 pandemic. The total allowance of $1.1 million against such customers' outstanding receivable balances of $1.5 million at September 30, 2021 represents management's best estimate of collectibility, based on information currently available.

6. Leases

The Company has operating leases for its current office, former office, and a retail store location, as well as certain equipment with a term of 12 months or less. The Company's real estate leases have remaining lease terms of between 5 months and 7.25 years.

Under GAAP, a lessee is generally required to recognize a liability for its obligation to make future lease payments (the lease liability) and a right-of-use ("ROU") asset representing its right to use the underlying leased asset for the lease term. The Company determines if an arrangement is a lease at inception. Operating leases are recorded in operating lease ROU assets, current portion of operating lease liabilities, and long-term operating lease liabilities on the Company's condensed consolidated balance sheets. The Company does not recognize lease liabilities and ROU assets for lease terms of 12 months or less, but recognizes such lease payments in operations on a straight-line basis over the lease terms.

Operating lease ROU assets and lease liabilities are recognized at commencement date based on the present value of lease payments over the lease term. As the Company's leases typically do not provide an implicit rate, the Company generally uses its incremental borrowing rate based on the information available at commencement date in determining the present value of lease payments. Lease terms may include options to extend or terminate the lease when it is reasonably certain that the Company will exercise that option. Lease expense for operating lease payments is generally recognized on a straight-line basis over the lease term.

For both the current and prior year quarter, lease expense included in selling, general and administrative expenses on the Company's unaudited condensed consolidated statements of operations was approximately $0.4 million. For the current and prior year nine months, lease expense included in selling, general and administrative expenses on the Company's unaudited condensed consolidated statements of operations was approximately $1.2 million.

As of September 30, 2021, the weighted average remaining operating lease term was approximately 5.9 years and the weighted average discount rate for operating leases was 8.64%.

Cash paid for amounts included in the measurement of operating lease liabilities was $0.4 million in the current quarter, $1.7 million in the current nine months, $0.6 million in the prior year quarter, and $1.2 million in the prior year nine months.

As of September 30, 2021, the maturities of lease liabilities were as follows:

($ in thousands)		
2021 (October 1 through December 31)	$	539
2022		1,891
2023		1,711
2024		1,711
2025		1,710
After 2025		3,579
Total lease payments		11,141
Less: Discount		2,531
Present value of lease liabilities		8,610
Current portion of lease liabilities		1,315
Non-current portion of lease liabilities	$	7,295

XCEL BRANDS, INC. AND SUBSIDIARIES
Notes to Unaudited Condensed Consolidated Financial Statements
September 30, 2021
(Unaudited)

7. Debt

The Company's net carrying amount of debt was comprised of the following:

($ in thousands)	September 30, 2021	December 31, 2020
Term loan debt	$ 23,750	$ 16,750
Unamortized deferred finance costs related to term loan debt	(1,017)	(112)
Revolving loan debt	2,498	—
Total	25,231	16,638
Current portion of debt (i)	4,998	2,800
Long-term debt	$ 20,233	$ 13,838

(i) The current portion of debt as of September 30, 2021 consists of $2.5 million of term loan debt and $2.5 million of revolving loan debt; the current portion of debt as of December 31, 2020 is related solely to term loan debt.

Previous Term Loan Debt

On February 11, 2019, the Company entered into an amended loan agreement with Bank Hapoalim B.M. ("BHI"), which amended and restated a prior term loan with BHI, such that, as of February 11, 2019, the aggregate outstanding balance of all the term loans extended by BHI to Xcel was $22.0 million, which amount was divided into two term loans: (1) a term loan in the amount of $7.3 million and (2) a term loan in the amount of $14.7 million. Such loan agreement was subsequently amended on April 13, 2020 and again on August 18, 2020; such amendments changed the timing and amount of quarterly installment payments, but did not change the total principal balance, interest rate, or maturity date. These amendments during 2020 were accounted for as debt modifications and, accordingly, no gain or loss was recorded.

Current Term Loan Debt

On April 14, 2021 (the "Loan Closing Date"), Xcel, as Borrower, and its wholly-owned subsidiaries (each a "Guarantor" and collectively, the "Guarantors"), entered into a Loan and Security Agreement (the "Loan Agreement") with BHI as administrative agent and collateral agent, FEAC Agent, LLC ("FEAC") as co-collateral agent, and the financial institutions party thereto as lenders (the "Lenders"). Pursuant to the Loan Agreement, the Lenders made two term loans: (1) a term loan in the amount of $10.0 million ("Term Loan A") and (2) a term loan in the amount of $15.0 million ("Term Loan B" and, together with Term Loan A, the "Term Loans").

The Loan Agreement also provided that the Lenders make available to Xcel a revolving loan facility in an amount up to $4.0 million on a discretionary basis, but not to exceed 85% of the amount of eligible accounts receivable, as defined. Xcel shall have the right to request the Lenders to make incremental term loans (the "Incremental Term Loans") of up to $25.0 million.

Management assessed and determined that this new agreement resulted in an extinguishment of the previous term loan debt, and accordingly recognized a loss of approximately $0.8 million (consisting of $0.1 million of unamortized deferred finance costs and $0.7 million of breakage fees owed to the old lender under the terms of the previous debt agreement) during the current quarter. Approximately $367,000 of such aforementioned breakage fees were paid at time of extinguishment, with the remaining $367,000 of such fees payable in three equal payments on each of May 1, 2022, 2023, and 2024.

Upon entering into the Loan Agreement, Xcel paid a 2.5% closing fee in the amount of $0.625 million to the administrative agent for the benefit of each Lender having a term loan commitment; the Company also paid approximately $0.6 million of various legal and other fees in connection with the execution of the Loan Agreement. These fees and costs totaling approximately $1.2 million have been deferred on the condensed consolidated balance sheet as of September 30, 2021 as a reduction of the carrying value of the Term Loans, and are being amortized to interest expense over the term of the Term Loans using the effective interest method.

The Term Loans mature on April 14, 2025, Incremental Term Loans shall mature on the date set forth in the applicable term note, and Revolving Loans mature on April 14, 2022 or such later date as agreed upon by Xcel and the Lenders. Principal on the Term Loans is payable in 16 quarterly installments of $625,000 on each of March 31, June 30, September 30, and December 31 of each year, commencing on June 30, 2021 and ending on March 31, 2025, with a final payment of $15.0 million on the maturity date of April 14, 2025. An amount equal to eighty percent (80%) of each quarterly principal installment payment shall be applied to the Term Loan A and the remaining twenty percent (20%) of each such quarterly principal installment shall be applied to the Term Loan B until the outstanding principal balance of Term Loan A is paid in full. Thereafter, one hundred percent (100%) of each such quarterly principal installment shall be applied to the Term Loan B.

The aggregate remaining annual scheduled principal payments under the Term Loans at September 30, 2021 were as follows:

($ in thousands) Year Ending December 31,		Amount of Principal Payment
2021 (October 1 to December 31)	$	625
2022		2,500
2023		2,500
2024		2,500
2025		15,625
Total	$	23,750

Xcel shall have the right upon 30 days' prior written notice to (i) terminate the Revolving Loan facility and repay all Revolving Loans and accrued and unpaid interest thereon and (ii) prepay all or any portion of the Term Loans or Incremental Term Loans and accrued and unpaid interest thereon, provided that any prepayment of the Term Loans shall be applied first to prepay the Term Loan A in full, second to prepay the Term Loan B, and third to the Incremental Term Loans in accordance with the terms agreed to by Xcel, the Lenders, and the administrative agent.

If any Term Loan is prepaid in whole or in part on or prior to the third anniversary of the Loan Closing Date (including as a result of an event of default), Xcel shall pay a prepayment premium as follows: an amount equal to the principal amount of the Term Loan prepaid multiplied by: (i) the greater of three percent (3.00%) and the Lost Yield Revenue (as defined below) if such prepayment occurs on or before the first anniversary of the Loan Closing Date; (ii) two percent (2.00%) if such prepayment occurs at any time after the first anniversary of the Loan Closing Date and on or prior to the second anniversary of the Loan Closing Date; and (iii) one percent (1.00%) if such prepayment occurs at any time after the second anniversary of the Loan Closing Date on or prior to the third anniversary of the Loan Closing Date. Xcel is not obligated to pay a prepayment premium if the Term Loans are prepaid after the third anniversary of the Loan Closing Date. "Lost Yield Revenue" means, with respect to any payment of Term Loans at any time on or prior to the first anniversary of the Loan Closing Date (excluding regularly scheduled amortization payments), the amount of interest (including interest at the Default Rate to the extent the Default Rate is being charged under the Loan Agreement) that would have accrued on the repaid Term Loans during the first 12 months of the term of the Loan Agreement minus the portion of such interest on such Term Loans that actually has been paid.

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Xcel's obligations under the Loan Agreement are guaranteed by the Guarantors and secured by all of the assets of Xcel and the Guarantors (as well as any subsidiary formed or acquired that becomes a credit party to the Loan Agreement) and, subject to certain limitations contained in the Loan Agreement, equity interests of the Guarantors (as well as any subsidiary formed or acquired that becomes a credit party to the Loan Agreement).

Xcel also granted the Lenders a right of first offer to finance any acquisition for which the consideration therefor will be paid other than by cash of Xcel or the Guarantors, the issuance of equity interest of Xcel, or the issuance of notes to the applicable seller.

The Loan Agreement contains customary covenants, including reporting requirements, trademark preservation, and financial covenants (on a consolidated basis with Xcel and the Guarantors under the Loan Agreement).

On August 12, 2021, the Company, BHI, FEAC, and the Lenders amended the Loan Agreement entered into on April 14, 2021. Under this amendment, the EBITDA financial covenant for the three months ended June 30, 2021 was eliminated, and the financial covenants related to EBITDA, fixed charge coverage ratio, and leverage ratio were lowered for the remainder of 2021 and for the 12 months ending March 31, 2022. Additionally, the maximum amount available under the revolving loan facility was reduced from $4.0 million to $1.5 million until the Company meets or exceeds certain financial targets as set forth in the amendment. There were no changes to the total principal balance, interest rate, maturity date, or any other terms of the Loan Agreement.

On September 29, 2021, the Company, BHI, FEAC, and the Lenders amended the Loan Agreement entered into on April 14, 2021. Under this amendment, the maximum amount available under the revolving loan facility was changed to $2.5 million for the period from September 29, 2021 to November 15, 2021, and $1.5 million thereafter until the Company meets or exceeds certain financial targets as set forth in the amendment. There were no changes to the total principal balance, interest rate, maturity date, or any other terms of the Loan Agreement.

On November 12, 2021, the Company, BHI, FEAC, and the Lenders amended the Loan Agreement entered into on April 14, 2021. Under this amendment, certain financial covenants were modified or eliminated for certain time periods. There were no changes to the total principal balance, interest rate, maturity date, or any other terms of the Loan Agreement

The Company's financial covenants under the Loan Agreement, as amended, are as follows:

- minimum EBITDA at the end of specified fiscal periods as set forth below;

Fiscal Period	Minimum EBITDA	
April 1, 2021 to September 30, 2021	$	2,200,000
April 1, 2021 to December 31, 2021	$	3,426,000
April 1, 2021 to March 31, 2022	$	4,515,000
July 1, 2021 to June 30, 2022	$	5,146,000
October 1, 2021 to September 30, 2022	$	6,500,000
For the trailing twelve month periods ending December 31, 2022, March 31, 2023, June 30, 2023, and September 30, 2023	$	7,000,000
For the trailing twelve month periods ending December 31, 2023, March 31, 2024, June 30, 2024, September 30, 2024, December 31, 2024, and March 31, 2025	$	7,500,000

- liquid assets of at least 4.0 million at all times;

- a fixed charge coverage ratio of not less than (a) 1.00 to 1.00 for the nine month period ending on December 31, 2021, (b) 1.00 to 1.00 for the twelve fiscal month period ending March 31, 2022, and (c) 1.25 to 1.00 for the twelve fiscal month period ending at the end of each fiscal quarter commencing with the fiscal quarter ending June 30, 2022;

- a leverage ratio for the twelve fiscal month period ending at the end of each fiscal quarter not exceeding (a) 6.75 to 1.00 for the fiscal quarter ending December 31, 2021, (b) 5.30 to 1.00 for the fiscal quarter ending March 31, 2022, and (c) 4.00 to 1.00 for each fiscal quarter ending on and after June 30, 2022; and

- a loan to value ratio not exceeding 50%.

The Company was in compliance with all applicable covenants as of September 30, 2021, inclusive of the aforementioned amendment executed on November 12, 2021.

Interest on the Term Loan A will accrue at LIBOR plus 4.0% per annum, interest on the Term Loan B will accrue at LIBOR plus 8.0% per annum, and interest on the Revolving Loans will accrue at either the Base Rate plus 1.5% per annum or LIBOR plus 3.75%, as elected by Xcel. Interest on the Loans is payable on the last business day of each calendar month. Base Rate is defined in the Loan Agreement as the greater of (a) BHI's stated prime rate or (b) 2.00% per annum plus the overnight federal funds rate published by the Federal Reserve Bank of New York. LIBOR is defined in the Loan Agreement as the greater of (a) the rate of interest per annum for deposits in dollars for an interest period equal to one month as published by ICE Benchmark Administration Limited or a comparable or successor quoting service at approximately 11:00 a.m. (London time) on such date of determination or (b) 1.0% per annum. Interest on the Incremental Term Loans will accrue at rates and will be paid on dates to be agreed to by Xcel and the Lenders.

For the current and prior year quarter, the Company incurred interest expense related to term loan debt of approximately $565,000 and $303,000, respectively. For the current nine months and prior year nine months, the Company incurred interest expense related to term loan debt of approximately $1,363,000 and $926,000, respectively. The effective interest rate related to term loan debt was approximately 9.6% and 8.4% for the current quarter and current nine months, respectively, and was approximately 6.6% for both the prior year quarter and prior year nine months.

On June 24, 2021, Xcel borrowed $1.5 million under the aforementioned revolving loan facility, and on September 30, 2021, Xcel borrowed $998,000 under the aforementioned revolving loan facility. The Company incurred related interest expense for the current quarter and current nine months of approximately $18,000 and $19,000, respectively.

8. Government Assistance

Paycheck Protection Program ("PPP")

On April 20, 2020, the Company executed a promissory note (the "Promissory Note") with Bank of America, N.A., which provided for an unsecured loan in the amount of $1.806 million, pursuant to the Paycheck Protection Program ("PPP") under the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"). The loan had a two-year term and bore interest at a fixed rate of 1.0% per annum, and monthly principal and interest payments were deferred for six months after the date of disbursement. The Promissory Note contained events of default and other provisions customary for a loan of this type. The loan was funded on April 23, 2020.

The PPP also provides that such a loan may be partially or wholly forgiven if the funds are used for certain qualifying expenses as described in the CARES Act, and later amended by the Paycheck Protection Program Flexibility Act (the "Flexibility Act") signed into law on June 5, 2020. Such forgiveness is determined, subject to limitations, based on the use of loan proceeds for payment of payroll costs and any payments of mortgage interest, rent, and utilities.

Management evaluated the legal and contractual terms associated with the loan, and concluded that, although the legal form of the loan was debt, it represented in substance a government grant that was expected to be forgiven. Given the lack of definitive authoritative guidance under GAAP for accounting for government grants, the Company analogized to accounting guidance under International Accounting Standard No. 20, "Accounting for Government Grants and Disclosure of Government Assistance." Under such guidance, once it is probable that the conditions attached to the assistance will be met, the earnings impact of government grants is recorded on a systematic basis over the periods in which the entity recognizes as expenses the related costs for which the grants are intended to compensate. Accordingly, the Company recognized approximately $166,000 and $1,806,000 as a reduction to operating expenses in the prior year quarter and prior year nine months, respectively. No interest expense related to the loan was recorded in the Company's condensed consolidated financial statements.

On September 29, 2021, the U.S. Small Business Administration, as authorized by the CARES Act, remitted payment of $1,806,000 to Bank of America, N.A. for full forgiveness of the Company's Promissory Note under the PPP.

Economic Incentive Disaster Loan (EIDL)

Concurrently with the PPP loan, in May 2020 the Company also received a $10,000 Economic Incentive Disaster Loan ("EIDL") Advance through the U.S. Small Business Administration. The EIDL Advance represents a grant that does not have to be repaid, and as such, the Company recognized $10,000 as a reduction to operating expenses in the prior quarter and prior year nine months.

In total for both the PPP and EIDL, the Company recognized approximately $176,000 and $1,816,000 as a reduction to operating expenses in the prior year quarter and prior year nine months, respectively.

9. Stockholders' Equity

2011 Equity Incentive Plan

The Company's 2011 Equity Incentive Plan, as amended and restated (the "Plan"), is designed and utilized to enable the Company to provide its employees, officers, directors, consultants, and others whose past, present, and/or potential contributions to the Company have been, are, or will be important to the success of the Company, an opportunity to acquire a proprietary interest in the Company. A total of 13,000,000 shares of common stock are eligible for issuance under the Plan. The Plan provides for the grant of any or all of the following types of awards: stock options, restricted stock, deferred stock, stock appreciation rights, and other stock-based awards. The Plan is administered by the Company's Board of Directors, or, at the Board's discretion, a committee of the Board.

The Company accounts for stock-based compensation in accordance with Accounting Standards Codification Topic 718, "Compensation - Stock Compensation," by recognizing the fair value of stock-based compensation as an operating expense over the service period of the award or term of the corresponding contract, as applicable.

The fair value of options and warrants is estimated on the date of grant using the Black-Scholes option pricing model. The valuation determined by the Black-Scholes option pricing model is affected by the Company's stock price as well as assumptions regarding a number of highly complex and subjective variables. These variables include, but are not limited to, expected stock price volatility over the term of the awards, and actual and projected employee stock option exercise behaviors. The risk-free rate is based on the U.S. Treasury rate for the expected life at the time of grant, volatility is based on the long-term implied volatilities of the Company's stock, and expected life is based on the estimated average of the life of options and warrants using the simplified method. The Company utilizes the simplified method to determine the expected life of the options and warrants due to insufficient exercise activity during recent years as a basis from which to estimate future exercise patterns. The expected dividend assumption is based on the Company's history and expectation of dividend payouts.

Restricted stock awards are valued using the fair value of the Company's stock at the date of grant.

For stock option awards for which vesting is contingent upon the achievement of certain performance targets, the timing and amount of compensation expense recognized is based upon the Company's projections and estimates of the relevant performance metric(s) until the time the performance obligation is satisfied.

Forfeitures are accounted for as a reduction of compensation cost in the period when such forfeitures occur.

Stock Options

Options granted under the Plan expire at various times – either five, seven, or ten years from the date of grant, depending on the particular grant.

A summary of the Company's stock options activity for the current nine months is as follows:

	Number of Options	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life (in Years)	Aggregate Intrinsic Value
Outstanding at January 1, 2021	7,179,375	$ 3.14	4.93	$ —
Granted	510,390	1.91		
Canceled	(8,050)	1.86		
Exercised	(99,700)	1.77		
Expired/Forfeited	(1,771,070)	5.63		
Outstanding at September 30, 2021, and expected to vest	5,810,945	$ 2.32	5.56	$ —
Exercisable at September 30, 2021	1,931,778	$ 3.40	2.10	$ —

On March 15, 2021, the Company granted options to purchase an aggregate of 365,390 shares of common stock to various employees. The exercise price of the options is $1.86 per share, and all options vested immediately on the date of grant.

On April 1, 2021, the Company granted options to purchase an aggregate of 125,000 shares of common stock to non-management directors. The exercise price of the options is $1.93 per share, and 50% of the options vest on each of April 1, 2022 and April 1, 2023.

On July 1, 2021, the Company granted options to purchase an aggregate of 20,000 shares of common stock to a member of management. The exercise price of the options is $2.76 per share, and 50% of the options vest on each of June 1, 2022 and June 1, 2023.

Compensation expense related to stock options for the current quarter and the prior year quarter was approximately $48,000 and $45,000, respectively. Compensation expense related to stock options for the current nine months and prior year nine months was approximately $246,000 and $158,000, respectively.

Total unrecognized compensation expense related to unvested stock options at September 30, 2021 amounts to approximately $125,000 and is expected to be recognized over a weighted average period of approximately 1.16 years.

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A summary of the Company's non-vested stock options activity for the current nine months is as follows:

	Number of Options	Weighted Average Grant Date Fair Value
Balance at January 1, 2021	4,116,167	$ 0.08
Granted	510,390	0.44
Vested	(647,390)	0.43
Forfeited or Canceled	(100,000)	0.08
Balance at September 30, 2021	3,879,167	$ 0.06

Warrants

Warrants expire at various times – either five or ten years from the date of grant, depending on the particular grant.

A summary of the Company's warrants activity for the current nine months is as follows:

	Number of Warrants	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life (in Years)	Aggregate Intrinsic Value
Outstanding and exercisable at January 1, 2021	579,815	$ 4.63	1.32	$ —
Granted	—	—		
Canceled	—	—		
Exercised	—	—		
Expired/Forfeited	(463,750)	5.00		
Outstanding and exercisable at September 30, 2021	116,065	$ 3.15	2.83	$ —

No compensation expense related to warrants was recognized in the current quarter, prior year quarter, current nine months, or prior year nine months.

Stock Awards

A summary of the Company's restricted stock activity for the current nine months is as follows:

	Number of Restricted Shares	Weighted Average Grant Date Fair Value
Outstanding at January 1, 2021	780,833	$ 4.09
Granted	254,623	1.69
Canceled	—	—
Vested	(204,623)	1.63
Expired/Forfeited	—	—
Outstanding at September 30, 2021	830,833	$ 3.96

On April 1, 2021, the Company issued an aggregate of 50,000 shares of stock to non-management directors, which vest evenly over two years, whereby 50% shall vest on April 1, 2022, and 50% shall vest on April 1, 2023.

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On April 26, 2021, the Company issued 14,045 shares of stock to a consultant, which vested immediately.

On July 1, 2021, the Company issued 9,399 shares of stock to a consultant, which vested immediately.

Compensation expense related to restricted stock grants for the current and prior year quarter was approximately $37,000 and $11,000, respectively. Compensation expense related to restricted stock grants for the current nine months and prior year nine months was approximately $84,000 and $44,000, respectively.

Total unrecognized compensation expense related to unvested restricted stock grants at September 30, 2021 amounts to approximately $72,000 and is expected to be recognized over a weighted average period of approximately 1.50 years.

Additionally, on May 7, 2021, the Company issued 181,179 shares of stock to a member of senior management as payment for a performance bonus earned in 2020. These shares vested immediately. The Company had previously recognized compensation expense of approximately $291,000 in 2020 to accrue for this performance bonus, and recognized a reduction to compensation expense of approximately $(8,000) during the current nine months related to this bonus. The Company also recognized approximately $46,000 and $400,000 of compensation expense in the current quarter and current nine months, respectively, related to similar senior management bonuses payable in common stock in 2022.

The Company also recognized approximately $32,000 of compensation expense in the current quarter and current nine months to accrue for a contractual payment to an employee that will be paid in shares in the fourth quarter of 2021.

Shares Available Under the Company's 2011 Equity Incentive Plan

As of September 30, 2021, there were 2,636,969 shares of common stock available for issuance under the Plan.

Shares Reserved for Issuance

As of September 30, 2021, there were 8,563,979 shares of common stock reserved for issuance pursuant to unexercised warrants and stock options, or available for issuance under the Plan.

Dividends

The Company has not paid any dividends to date.

10. Earnings Per Share

Basic earnings per share ("EPS") is computed by dividing net income (loss) available to common stockholders by the weighted average number of common shares outstanding during the period. Diluted EPS gives effect to all potentially dilutive common shares outstanding during the period, including stock options and warrants, using the treasury stock method. Diluted EPS excludes all potentially dilutive shares of common stock if their effect is anti-dilutive.

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2021	**2020**	**2021**	**2020**
Basic	19,541,774	19,231,040	19,418,469	19,078,453
Effect of exercise of warrants	—	—	—	—
Effect of exercise of stock options	—	—	—	—
Diluted	19,541,774	19,231,040	19,418,469	19,078,453

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As a result of the net loss for all periods presented, the Company calculated diluted earnings per share using basic weighted average shares outstanding for such period, as utilizing diluted shares would be anti-dilutive to loss per share.

The computation of diluted EPS excludes the following potentially dilutive securities because their inclusion would be anti-dilutive:

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2021	2020	2021	2020
Stock options and warrants	5,927,010	8,083,690	5,927,010	8,083,690

11. Income Tax

The effective income tax benefit rate for the current quarter and the prior year quarter was approximately 28% and 25%, respectively, resulting in an income tax benefit of $0.54 million and $0.15 million, respectively.

The effective income tax benefit rate for the current nine months and prior year nine months was approximately 26% and 10%, respectively, resulting in an income tax benefit of $2.02 million and $0.27 million, respectively.

For the current quarter, the federal statutory rate differed from the effective tax rate primarily due to state taxes, which increased the effective tax rate by approximately 7%.

For the prior year quarter, the federal statutory rate differed from the effective tax rate primarily due to state taxes and recurring permanent differences, which increased the effective tax rate by approximately 12% and 18%, respectively, partially offset by the tax impact from the vesting of restricted shares of common stock, which was treated as a discrete item for tax purposes and decreased the effective rate by approximately 26%. The effective tax rate was also affected by the tax impact of a potential federal net operating loss carryback due to the CARES Act; this item increased the effective rate by approximately 3%.

For the current nine months, the federal statutory rate differed from the effective tax rate primarily due to state taxes, which increased the effective tax rate by approximately 7%, partially offset by the impact of recurring permanent differences, which decreased the effective tax rate by approximately 2%.

For the prior year nine months, the federal statutory rate differed from the effective tax rate primarily due to the tax impact from the vesting of restricted shares of common stock, which was treated as a discrete item for tax purposes and decreased the effective rate by approximately 5%. The effective rate was also attributable to state taxes and recurring permanent differences, which increased the effective tax rate by approximately 6% and decreased the effective tax rate by approximately 3%, respectively.

12. Related Party Transactions

Robert W. D’Loren

Jennifer D’Loren is the wife of Robert W. D’Loren, the Company’s Chief Executive Officer and Chairman of the Board, and is employed by the Company. Mrs. D’Loren brings vast experience in project management and implementation of financial IT solutions. During the past two years, Mrs. D’Loren has worked on the implementation of the Company’s ERP system. Mrs. D’Loren received compensation of $11,000 and $29,000 for the current quarter and prior year quarter, respectively. Mrs. D’Loren received compensation of $32,000 and $99,000 for the current nine months and prior year nine months, respectively.

Isaac Mizrahi

On February 24, 2020, the Company entered into an employment agreement with Isaac Mizrahi, a principal stockholder of the Company, for Mr. Mizrahi to continue to serve as Chief Design Officer of the Isaac Mizrahi Brand. The term of the employment agreement expires on December 31, 2022, subject to earlier termination, and may be extended, at the Company's option, for two successive one-year terms (each, a "Renewal Period"). Mr. Mizrahi's base salary shall be $1.8 million, $2.0 million, and $2.1 million per annum during the term of the agreement and $2.25 million and $2.4 million during 2023 and 2024 if the term is extended, in each case, subject to adjustment in the event Mr. Mizrahi does not make a specified number of appearances on the QVC channel. Mr. Mizrahi shall be eligible to receive an annual cash bonus (the "Bonus") up to an amount equal to $2.5 million less base salary for 2020 and $3.0 million less base salary for 2021, 2022, and any year during the Renewal Period. The Bonus shall consist of the DRT Revenue, Bonus, the Brick-and-Mortar Bonus, the Endorsement Bonus and the Monday Bonus, if any, as determined in accordance with the following:

- "DRT Bonus" means for any calendar year an amount equal to 10% of the aggregate net revenue related to sales of Isaac Mizrahi Brand products through direct response television. The DRT Revenue Bonus shall be reduced by the amount of the Monday Bonus.

- "Brick-and-Mortar Bonus" means for any calendar year an amount equal to 10% of the net revenues from sales of products under the Isaac Mizrahi Brand, excluding DRT revenue and endorsement revenues.

- "Endorsement Bonus" means for any calendar year an amount equal to 40% of revenues derived from projects undertaken by the Company with one or more third parties solely for Mr. Mizrahi to endorse the third party's products through the use of Mr. Mizrahi's name, likeness, and/or image, and neither the Company nor Mr. Mizrahi provides licensing or design.

- "Monday Bonus" means $10,000 for each appearance by Mr. Mizrahi on the QVC channel on Mondays (subject to certain expectations) up to a maximum of 40 such appearances in a calendar year.

Mr. Mizrahi is required to devote his full business time and attention to the business and affairs of the Company and its subsidiaries; however, Mr. Mizrahi is the principal of IM Ready-Made, LLC and Laugh Club, Inc. ("Laugh Club"), and accordingly, he may undertake promotional activities related thereto (including the promotion of his name, image, and likeness) through television, video, and other media (and retain any compensation he receives for such activities) (referred to as "Retained Media Rights") so long as such activities (i) do not utilize the IM trademarks, (ii) do not have a mutually negative impact upon or materially conflict with Mr. Mizrahi's duties under the employment agreement, or (iii) are consented to by the Company. The Company believes that it benefits from Mr. Mizrahi's independent promotional activities by increased brand awareness of IM Brands and the IM trademarks.

Severance. If Mr. Mizrahi's employment is terminated by the Company without "cause," or if Mr. Mizrahi resigns with "good reason," then Mr. Mizrahi will be entitled to receive his unpaid base salary and cash bonuses through the termination date and an amount equal to his base salary in effect on the termination date for the longer of six months and the remainder of the then-current term, but in no event exceeding 18 months. If Mr. Mizrahi's employment is terminated by the Company without "cause" or if Mr. Mizrahi resigns with "good reason" within six months following a change of control (as defined in the employment agreement), Mr. Mizrahi shall be eligible to receive a lump-sum payment equal to two times the sum of (i) his base salary (at an average rate that would have been in effect for such two-year period following termination) plus (ii) the bonus paid or due to Mr. Mizrahi in the year prior to the change in control.

Non-Competition and Non-Solicitation. During the term of Mr. Mizrahi's employment by the Company and for a one-year period after the termination of such employment (unless his employment was terminated without "cause" or was terminated by him for "good reason"), Mr. Mizrahi may not permit his name to be used by or to participate in any business or enterprise (other than the mere passive ownership of not more than 3% of the outstanding stock of any class of a publicly held corporation whose stock is traded on a national securities exchange or in the over-the-counter market) that engages or proposes to engage in the Company's business anywhere in the world other than the Company and its subsidiaries. Also during his employment and for a one-year period after the termination of such employment, Mr. Mizrahi may not, directly or indirectly, solicit, induce, or attempt to induce any customer, supplier, licensee, or other business relation of the Company or any of its subsidiaries to cease doing business with the Company or any or its subsidiaries; or solicit, induce, or attempt to induce any person who is, or was during the then-most recent 12-month period, a corporate officer, general manager, or other employee of the Company or any of its subsidiaries, to terminate such employee's employment with the Company or any of its subsidiaries; or hire any such person unless such person's employment was terminated by the Company or any of its subsidiaries; or in any way interfere with the relationship between any such customer, supplier, licensee, employee, or business relation and the Company or any of its subsidiaries.

On February 24, 2020, the Company entered into a services agreement with Laugh Club, an entity wholly-owned by Mr. Mizrahi, pursuant to which Laugh Club shall provide services to Mr. Mizrahi necessary for Mr. Mizrahi to perform his services pursuant to the employment agreement. The Company will pay Laugh Club an annual fee of $0.72 million for such services.

13. Commitments and Contingencies

Contingent Obligation – Halston Heritage Earn-Out

In connection with the February 11, 2019 purchase of the Halston Heritage trademarks from H Company IP, LLC ("HIP"), the Company agreed to pay HIP additional consideration (the "Halston Heritage Earn-Out") of up to an aggregate of $6.0 million, based on royalties earned through December 31, 2022. The Halston Heritage Earn-Out of $0.9 million is recorded as a long-term liability at September 30, 2021 and December 31, 2020 in the accompanying condensed consolidated balance sheets, based on the difference between the fair value of the acquired assets of the Halston Heritage trademarks and the total consideration paid. In accordance with ASC Topic 480, "Distinguishing Liabilities from Equity," the Halston Heritage Earn-Out obligation is treated as a liability in the accompanying condensed consolidated balance sheets because of the variable number of shares payable under the agreement.

Contingent Obligation – Lori Goldstein Earn-Out

In connection with the April 1, 2021 acquisition of the Lori Goldstein trademarks (see Note 2 for additional information), the Company agreed to pay the Seller additional cash consideration of up to $12.5 million, based on royalties earned during the six calendar year period commencing in 2021. The Lori Goldstein Earn-Out of $6.6 million is recorded as a long-term liability at September 30, 2021 in the accompanying condensed consolidated balance sheet, based on the difference between the fair value of the acquired assets of the Lori Goldstein brand and the total consideration paid, in accordance with the guidance in ASC Subtopic 805-50.

Coronavirus Pandemic

In March 2020, the World Health Organization declared the outbreak of a novel coronavirus disease ("COVID-19") as a pandemic, which continues to circulate throughout the U.S. and the world. COVID-19 has had an unprecedented impact on the U.S. and global economy as national, state, and local governments continue to react to and attempt to manage this ongoing public health crisis.

The impacts of the ongoing COVID-19 pandemic are broad reaching and are having an impact on the Company's licensing and wholesale businesses. The COVID-19 pandemic is impacting the Company's supply chain as most of the Company's products are manufactured in China, Thailand, and other places around the world affected by this event. Temporary factory closures and the pace of workers returning to work have impacted contract manufacturers' ability to source certain raw materials and to produce finished goods in a timely manner. The pandemic is also impacting distribution and logistics providers' ability to operate in the normal course of business. Further, the pandemic has resulted in a sudden and continuing decrease in sales for many of the Company's products, resulting in order cancellations, and a decrease in accounts receivable collections, as the Company recorded approximately $1 million of additional allowance for doubtful accounts for the year ended December 31, 2020, and approximately $0.1 million for the current nine months, for retailers that have filed for bankruptcy.

Due to the ongoing COVID-19 pandemic, there is significant uncertainty surrounding the impact on the Company's future results of operations and cash flows. Continued impacts of the pandemic could materially adversely affect the Company's near-term and long-term revenues, earnings, liquidity, and cash flows as the Company's customers and/or licensees may request temporary relief, delay, or not make scheduled payments.

14. Subsequent Events

Amendment to Term Loans

On November 12, 2021, the Company, BHI, FEAC, and the Lenders amended the Loan Agreement that was entered into on April 14, 2021 and had been amended on August 12, 2021 and September 29, 2021. Under the November 2021 amendment, certain financial covenants were modified or eliminated for certain time periods. There were no changes to the total principal balance, interest rate, maturity date, or any other terms of the Loan Agreement. Refer to Note 7 for further details.

ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

Safe Harbor Statement under the Private Securities Litigation Reform Act of 1995. The statements that are not historical facts contained in this report are forward-looking statements that involve a number of known and unknown risks, uncertainties and other factors, all of which are difficult or impossible to predict and many of which are beyond our control, which may cause our actual results, performance or achievements to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements. These risks are detailed in the Risk Factors section of our Form 10-K for the fiscal year ended December 31, 2020, as filed with the SEC on April 23, 2021. The words "believe," "anticipate," "expect," "continue," "estimate," "appear," "suggest," "goal," "potential," "predicts," "seek," "will," "confident," "project," "provide," "plan," "likely," "future," "ongoing," "intend," "may," "should," "would," "could," "guidance," and similar expressions identify forward-looking statements.

Overview

Xcel Brands, Inc. ("Xcel," the "Company," "we," "us," or "our") is a media and consumer products company engaged in the design, production, marketing, wholesale distribution, and direct-to-consumer sales of branded apparel, footwear, accessories, fine jewelry, home goods and other consumer products, and the acquisition of dynamic consumer lifestyle brands. Xcel was founded in 2011 with a vision to reimagine shopping, entertainment, and social media as one thing. The Company owns and manages the Isaac Mizrahi brand (the "Isaac Mizrahi Brand"), the Halston brand (the "Halston Brand"), the Judith Ripka brand (the "Ripka Brand"), the C Wonder brand (the "C Wonder Brand"), the LOGO by Lori Goldstein brand (the "Lori Goldstein Brand"), and the Longaberger brand (the "Longaberger Brand"), pioneering a true omni-channel sales strategy which includes the promotion and sale of products under its brands through interactive television, digital live-stream shopping, brick-and-mortar retail, wholesale and e-commerce channels to be everywhere its customers shop.

Our objective is to build a diversified portfolio of lifestyle consumer brands through organic growth and the strategic acquisition of new brands. To grow our brands, we are focused on the following primary strategies:

- expanding and leveraging our live-streaming platform. We recently launched our live-streaming platform through our Longaberger brand technology platform with the goal to build the world's largest digital marketplace powered by live-streaming and micro-influencers for home and other related products, designed to create a better lifestyle. We plan to leverage this technology across our other brands.
- wholesale distribution of our brands to retailers that sell to the end consumer;
- wholesale sales and/or licensing of our brands for sale through interactive television (i.e., QVC, HSN, The Shopping Channel, TVSN, etc.);
- licensing our brands to manufacturers and retailers for promotion and distribution through e-commerce, social commerce, and traditional brick-and-mortar retail channels whereby we provide certain design services;
- distribution of our brands through e-commerce directly to the end consumer; and
- acquiring additional consumer brands and integrating them into our operating platform while leveraging our operating infrastructure and distribution relationships.

We believe that Xcel offers a unique value proposition to our retail and direct-to-consumer customers and our licensees for the following reasons:

- our management team, including our officers' and directors' experience in, and relationships within the industry;

- our deep knowledge and expertise in live streaming;
- our design, production, sales, marketing, and supply chain and integrated technology platform that enables us to design and distribute trend-right product; and
- our operating strategy, significant media and internet presence, and distribution network.

Our design, production and supply chain platform was developed to shorten the supply chain cycle by utilizing state-of-the-art supply chain management technology, trend analytics, and data science to actively monitor fashion trends and read and react to customer demands.

Summary of Operating Results

Three months ended September 30, 2021 (the "current quarter") compared with the three months ended September 30, 2020 (the "prior year quarter")

Revenues

Current quarter net revenue increased approximately $3.9 million to $11.3 million from $7.4 million for the prior year quarter.

Net licensing revenue increased by approximately $1.7 million in the current quarter to $6.9 million, compared with $5.2 million in the prior year quarter. This increase in licensing revenue was primarily attributable to the Lori Goldstein brand, which we acquired on April 1, 2021, as well as continued strong performance and growth by the Isaac Mizrahi brand, partially offset by a decline in licensing revenue related to the transitioning of the H Halston brand to a wholesale supply model.

Net product sales increased by approximately $2.2 million in the current quarter to $4.4 million, compared with $2.2 million in the prior year quarter. The increase in net sales was primarily attributable to growth in wholesales for both apparel and jewelry, as sales in the prior year quarter were negatively impacted by an overall slowdown in economic activity related to the initial outbreak of the COVID-19 pandemic. Sales of Longaberger branded products through e-commerce, social commerce, and livestreaming also continued to grow year-over-year.

Cost of Goods Sold

Current quarter cost of goods sold was $2.9 million, compared with $1.3 million for the prior year quarter due to significantly higher volume of wholesale and e-commerce sales in the current quarter. Gross profit (net revenue less cost of goods sold) increased approximately $2.3 million to $8.4 million from $6.1 million in the prior year quarter, primarily driven by the aforementioned increase in net licensing revenue.

Gross profit margin from product sales declined slightly from approximately 41% in the prior year quarter to approximately 35% in the current quarter, primarily due to increased freight costs and other supply costs to source products.

Operating Costs and Expenses

Operating costs and expenses increased approximately $3.2 million from $6.5 million in the prior year quarter to $9.7 million in the current quarter. This increase was mainly driven by (i) a $1.2 million increase in salaries, benefits and employment taxes, which was primarily attributable to post-COVID normalized salary costs, and (ii) a $1.1 million increase in selling, general and administrative expenses, which was primarily attributable to combination of increased marketing expenses and higher logistics costs. Also significantly contributing the increase in operating costs and expenses was a $0.4 million increase in depreciation and amortization expense, primarily related to the Lori Goldstein brand trademarks acquired on April 1, 2021. The remainder of the increase in operating costs and expenses from the prior year quarter was largely due to $0.4 million of certain benefits and recoveries – including recovery of costs in connection with potential acquisitions, and government assistance received through the Paycheck Protection Program – that were recognized in the prior year and did not recur in the current quarter.

Interest and Finance Expense

Interest and finance expense for the current quarter was $0.6 million, compared with $0.3 million for the prior year quarter. This increase was primarily attributable to the fact that a new term loan agreement entered into during the second quarter of 2021 resulted in a higher outstanding principal balance at a higher interest rate as compared with the previous term loan agreement.

Income Tax Benefit

The effective income tax benefit rate for the current quarter and the prior year quarter was approximately 28% and 25%, respectively, resulting in an income tax benefit of $0.54 million and $0.15 million, respectively.

For the current quarter, the federal statutory rate differed from the effective tax rate primarily due to state taxes, which increased the effective tax rate by approximately 7%.

For the prior year quarter, the federal statutory rate differed from the effective tax rate primarily due to state taxes and recurring permanent differences, which increased the effective tax rate by approximately 12% and 18%, respectively, partially offset by the tax impact from the vesting of restricted shares of common stock, which was treated as a discrete item for tax purposes and decreased the effective rate by approximately 26%. The effective tax rate was also affected by the tax impact of a potential federal net operating loss carryback due to the CARES Act; this item increased the effective rate by approximately 3%.

Net Loss Attributable to Xcel Brands, Inc. Stockholders

We had a net loss of $1.1 million for the current quarter, compared with a net loss of $0.4 million for the prior year quarter, due to the combination of the factors outlined above.

Non-GAAP Net Income, Non-GAAP Diluted EPS, and Adjusted EBITDA

We had non-GAAP net income of approximately $0.01 million, or $0.00 per diluted share ("non-GAAP diluted EPS"), for the current quarter and non-GAAP net income of $0.8 million, or $0.04 per diluted share, for the prior year quarter. Non-GAAP net income is a non-GAAP unaudited term, which we define as net income (loss) attributable to Xcel Brands, Inc. stockholders, exclusive of amortization of trademarks, stock-based compensation, loss on extinguishment of debt, gain on sales of assets, gain on reduction of contingent obligations, costs (recoveries) in connection with potential acquisitions, certain adjustments to the provision for doubtful accounts related to the bankruptcy of and economic impact on certain retail customers due to the COVID-19 pandemic, asset impairments, and deferred income taxes. Non-GAAP net income and non-GAAP diluted EPS measures do not include the tax effect of the aforementioned adjusting items, due to the nature of these items and the Company's tax strategy.

We had Adjusted EBITDA of $1.0 million for the current quarter, compared with Adjusted EBITDA of $1.4 million for the prior year quarter. Adjusted EBITDA is a non-GAAP unaudited measure, which we define as net income (loss) attributable to Xcel Brands, Inc. stockholders before depreciation and amortization, interest and finance expenses (including loss on extinguishment of debt, if any), income taxes, other state and local franchise taxes, stock-based compensation, gain on reduction of contingent obligations, gain on sale of assets, costs (recoveries) in connection with potential acquisitions, asset impairments, and certain adjustments to the provision for doubtful accounts related to the bankruptcy of and economic impact on certain retail customers due to the COVID-19 pandemic.

Management uses non-GAAP net income, non-GAAP diluted EPS, and Adjusted EBITDA as measures of operating performance to assist in comparing performance from period to period on a consistent basis and to identify business trends relating to the Company's results of operations. Management believes non-GAAP net income, non-GAAP diluted EPS, and Adjusted EBITDA are also useful because these measures adjust for certain costs and other events that management believes are not representative of our core business operating results, and thus, these non-GAAP measures provide supplemental information to assist investors in evaluating the Company's financial results. The Company incurred certain costs in the prior year which it could have eliminated but elected not to do so in light of government assistance received through the Paycheck Protection Program under the CARES Act (the "PPP Benefit"), which represents a cash benefit directly related to the Company's operating expenses incurred. Accordingly, the PPP Benefit is not considered a reconciling item for purposes of the computation of non-GAAP net income and Adjusted EBITDA for the prior year periods. Adjusted EBITDA is the measure used to calculate compliance with the EBITDA covenant under the Company's term loan agreement.

Non-GAAP net income, non-GAAP diluted EPS, and Adjusted EBITDA should not be considered in isolation or as alternatives to net income, earnings per share, or any other measure of financial performance calculated and presented in accordance with GAAP. Given that non-GAAP net income, non-GAAP diluted EPS, and Adjusted EBITDA are financial measures not deemed to be in accordance with GAAP and are susceptible to varying calculations, our non-GAAP net income, non-GAAP diluted EPS, and Adjusted EBITDA may not be comparable to similarly titled measures of other companies, including companies in our industry, because other companies may calculate non-GAAP net income, non-GAAP diluted EPS, and Adjusted EBITDA in a different manner than we calculate these measures.

In evaluating non-GAAP net income, non-GAAP diluted EPS, and Adjusted EBITDA, you should be aware that in the future we may or may not incur expenses similar to some of the adjustments in this report. Our presentation of non-GAAP net income, non-GAAP diluted EPS, and Adjusted EBITDA does not imply that our future results will be unaffected by these expenses or any other unusual or non-recurring items. When evaluating our performance, you should consider non-GAAP net income, non-GAAP diluted EPS, and Adjusted EBITDA alongside other financial performance measures, including our net income and other GAAP results, and not rely on any single financial measure.

The following table is a reconciliation of net loss attributable to Xcel Brands, Inc. stockholders (our most directly comparable financial measure presented in accordance with GAAP) to non-GAAP net income:

	Three Months Ended September 30,	
($ in thousands)	**2021**	**2020**
Net loss attributable to Xcel Brands, Inc. stockholders	$ (1,136)	$ (434)
Amortization of trademarks	1,519	1,107
Stock-based compensation	163	49
(Recovery of) costs in connection with potential acquisition	—	(189)
Certain adjustments to provision for doubtful accounts	—	385
Property and equipment impairment	—	31
Gain on sale of assets	—	(46)
Deferred income tax benefit	(535)	(145)
Non-GAAP net income	$ 11	$ 758

The following table is a reconciliation of diluted loss per share (our most directly comparable financial measure presented in accordance with GAAP) to non-GAAP diluted EPS:

	Three Months Ended September 30, 2021	Three Months Ended September 30, 2020
Diluted loss per share	$ (0.06)	$ (0.02)
Amortization of trademarks	0.08	0.06
Stock-based compensation	0.01	—
(Recovery of) costs in connection with potential acquisition	—	(0.01)
Certain adjustments to provision for doubtful accounts	—	0.02
Property and equipment impairment	—	—
Gain on sale of assets	—	—
Deferred income tax benefit	(0.03)	(0.01)
Non-GAAP diluted EPS	$ 0.00	$ 0.04
Non-GAAP weighted average diluted shares	20,323,358	19,291,275

The following table is a reconciliation of net loss attributable to Xcel Brands, Inc. stockholders (our most directly comparable financial measure presented in accordance with GAAP) to Adjusted EBITDA:

($ in thousands)	Three Months Ended September 30, 2021	Three Months Ended September 30, 2020
Net loss attributable to Xcel Brands, Inc. stockholders	$ (1,136)	$ (434)
Depreciation and amortization	1,891	1,437
Interest and finance expense	588	304
Income tax benefit	(535)	(145)
State and local franchise taxes	33	41
Stock-based compensation	163	49
(Recovery of) costs in connection with potential acquisition	—	(189)
Certain adjustments to provision for doubtful accounts	—	385
Property and equipment impairment	—	31
Gain on sale of assets	—	(46)
Adjusted EBITDA	$ 1,004	$ 1,433

Nine months ended September 30, 2021 (the "current nine months") compared with the nine months ended September 30, 2020 (the "prior year nine months")

Revenues

Current nine months net revenue increased approximately $7.8 million to $29.8 million from $22.0 million for the prior year nine months.

Net licensing revenue increased by approximately $2.0 million in the current nine months to $17.4 million, compared with $15.4 million in the prior year nine months. This increase in licensing revenue was primarily attributable to the Lori Goldstein brand, which we acquired on April 1, 2021, as well as continued revenue growth by the Isaac Mizrahi brand, partially offset by a decline in licensing revenue related to the transitioning of the H Halston brand to a wholesale supply model.

Net product sales increased by approximately $5.8 million in the current nine months to $12.4 million, compared with $6.6 million in the prior year nine months. The increase in net sales was primarily attributable to higher jewelry wholesale sales. In addition, wholesale apparel sales contributed significantly to the year-over-year increase in net product sales, as retail sales were severely negatively impacted in the prior year period during the initial outbreak of the COVID-19 pandemic. Sales of Longaberger branded products through e-commerce, social commerce, and livestreaming also continued to grow year-over-year.

Cost of Goods Sold

Current nine months cost of goods sold was $7.8 million, compared with $3.9 million for the prior year nine months due to the higher volumes of wholesale and e-commerce sales in the current nine months. Gross profit (net revenue less cost of goods sold) increased approximately $4.1 million to $22.1 million from $18.0 million in the prior year nine months, driven by the combination of the aforementioned increases in both net licensing revenue and net product sales.

Gross profit margin from product sales declined slightly from approximately 41% in the prior year period to approximately 38% in the current nine months, primarily due to increased freight costs and other supply costs to source products.

Operating Costs and Expenses

Operating costs and expenses increased approximately $7.5 million from $20.1 million in the prior year nine months to $27.6 million in the current nine months. This increase was mainly driven by (i) a $2.5 million increase in salaries, benefits and employment taxes, which was primarily attributable to post-COVID normalized salary costs, (ii) a $2.2 million increase in selling, general and administrative expenses, which was primarily attributable to combination of increased marketing expenses, consulting fees, and logistics costs, partially offset by lower bad debt expense, and (iii) the prior year benefit of government assistance received through the Paycheck Protection Program in the prior year, for which the Company recognized $1.8 million as a reduction to prior year nine months' expenses. Also significantly contributing the increase in operating costs and expenses was a $0.9 million increase in depreciation and amortization expense, primarily related to the Lori Goldstein brand trademarks acquired on April 1, 2021.

Interest and Finance Expense

Interest and finance expense for the current nine months was $2.3 million, compared with $0.9 million for the prior nine months. This increase of approximately $1.4 million was primarily attributable to a $0.8 million loss on the extinguishment of debt recognized in the current nine months as a result of the new term loan financing agreement entered into on April 14, 2021. The increase in interest and finance expense was also partially attributable to the fact that the new term loan agreement entered into during the current nine months resulted in a higher outstanding principal balance at a higher interest rate as compared with the previous term loan agreement.

Income Tax Benefit

The effective income tax benefit rate for the current nine months and prior year nine months was approximately 26% and 10%, respectively, resulting in an income tax benefit of $2.02 million and $0.27 million, respectively.

For the current nine months, the federal statutory rate differed from the effective tax rate primarily due to state taxes, which increased the effective tax rate by approximately 7%, partially offset by the impact of recurring permanent differences, which decreased the effective tax rate by approximately 2%.

For the prior year nine months, the federal statutory rate differed from the effective tax rate primarily due to the tax impact from the vesting of restricted shares of common stock, which was treated as a discrete item for tax purposes and decreased the effect rate by approximately 5%. The effective rate was also attributable to state taxes and recurring permanent differences, which increased the effective tax rate by approximately 6% and decreased the effective tax rate by approximately 3%, respectively.

Net Loss Attributable to Xcel Brands, Inc. Stockholders

We had a net loss of $5.2 million for the current nine months, compared with a net loss of $2.5 million for the prior year nine months, due to the combination of the factors outlined above.

Non-GAAP Net Income, Non-GAAP Diluted EPS, and Adjusted EBITDA

We had a non-GAAP net loss of approximately $1.6 million, or $(0.08) per diluted share, for the current nine months and non-GAAP net income of approximately $2.1 million, or $0.11 per diluted share, for the prior year nine months. We had Adjusted EBITDA of approximately $1.0 million for the current nine months, compared with Adjusted EBITDA of $3.9 million for the prior year nine months.

The following table is a reconciliation of net loss attributable to Xcel Brands, Inc. stockholders (our most directly comparable financial measure presented in accordance with GAAP) to non-GAAP net income:

	Nine Months Ended September 30,	
($ in thousands)	**2021**	**2020**
Net loss attributable to Xcel Brands, Inc. stockholders	$ (5,241)	$ (2,539)
Amortization of trademarks	3,915	3,323
Stock-based compensation	754	780
Loss on extinguishment of debt	821	—
(Recovery of) costs in connection with potential acquisition	—	(210)
Certain adjustments to provision for doubtful accounts	132	971
Property and equipment impairment	—	113
Gain on sale of assets	—	(46)
Deferred income tax benefit	(2,019)	(269)
Non-GAAP net (loss) income	$ (1,638)	$ 2,123

The following table is a reconciliation of diluted loss per share (our most directly comparable financial measure presented in accordance with GAAP) to non-GAAP diluted EPS:

	Nine Months Ended September 30,	
	2021	**2020**
Diluted loss per share	$ (0.27)	$ (0.13)
Amortization of trademarks	0.20	0.17
Stock-based compensation	0.04	0.04
Loss on extinguishment of debt	0.04	—
(Recovery of) costs in connection with potential acquisition	—	(0.01)
Certain adjustments to provision for doubtful accounts	0.01	0.05
Property and equipment impairment	—	0.01
Gain on sale of assets	—	—
Deferred income tax benefit	(0.10)	(0.02)
Non-GAAP diluted EPS	$ (0.08)	$ 0.11
Non-GAAP weighted average diluted shares	19,418,469	19,092,828

The following table is a reconciliation of net loss attributable to Xcel Brands, Inc. stockholders (our most directly comparable financial measure presented in accordance with GAAP) to Adjusted EBITDA:

($ in thousands)	Nine Months Ended September 30, 2021	Nine Months Ended September 30, 2020
Net loss attributable to Xcel Brands, Inc. stockholders	$ (5,241)	$ (2,539)
Depreciation and amortization	4,949	4,069
Interest and finance expense	2,311	897
Income tax benefit	(2,019)	(269)
State and local franchise taxes	105	124
Stock-based compensation	754	780
(Recovery of) costs in connection with potential acquisition	—	(210)
Certain adjustments to provision for doubtful accounts	132	971
Property and equipment impairment	—	113
Gain on sale of assets	—	(46)
Adjusted EBITDA	$ 991	$ 3,890

Liquidity and Capital Resources

Liquidity

Our principal capital requirements have been to fund working capital needs, acquire new brands, and to a lesser extent, capital expenditures. As of September 30, 2021 and December 31, 2020, our cash and cash equivalents were approximately $4.0 million and $5.0 million, respectively.

Restricted cash at September 30, 2021 and at December 31, 2020 consisted of $0.7 million and $1.1 million, respectively, of cash deposited with BHI as collateral for an irrevocable standby letter of credit associated with the lease of our current corporate office and operating facility.

On April 14, 2021, we entered into a new loan and security agreement, which resulted in the extinguishment of the $16.8 million term loan debt which existed as of December 31, 2020, and increased our term loan debt obligations to $25.0 million. Under this agreement, our term loan debt obligation is payable in 16 equal quarterly installments of $625,000, commencing June 30, 2021 and ending on March 31, 2025, with a final payment of $15.0 million payable on the maturity date of April 14, 2025. The agreement also provides for up to $25.0 million of future acquisition financing, subject to lender approval on a deal-by-deal basis. In addition, the agreement provides for a revolving loan facility of up to $2.5 million until November 15, 2021 and a maximum of $1.5 million thereafter, increasing to a maximum of $4.0 million after we demonstrate compliance with certain financial covenants for the applicable periods ending December 31, 2021 on a discretionary basis. On June 24, 2021, we borrowed $1.5 million under the revolving loan facility, and on September 30, 2021, we borrowed an additional $1.0 million under the revolving credit facility.

We expect that existing cash and operating cash flows will be adequate to meet our operating needs, term debt service obligations, and capital expenditure needs, for at least the 12 months subsequent to the filing date of this Quarterly Report on Form 10-Q.

Changes in Working Capital

Our working capital (current assets less current liabilities, excluding the current portion of operating lease obligations and any contingent obligations payable in common stock) was $8.9 million and $7.9 million as of September 30, 2021 and December 31, 2020, respectively. This working capital increase was primarily attributable to cash provided by the new term loan entered into during the current year period, partially offset by cash used to repay amounts outstanding under the previous term loan and to acquire the Lori Goldstein brand trademarks.

Commentary on the components of our cash flows for the current nine months as compared with the prior year nine months is set forth below.

Operating Activities

Net cash used in operating activities was approximately $(5.53) million in the current nine months, compared with net cash provided by operating activities of approximately $2.20 million in the prior year nine months.

The current nine months cash used in operating activities was primarily attributable to the combination of the net loss of $(5.80) million plus non-cash expenses of approximately $4.48 million and the net change in operating assets and liabilities of approximately $(4.21) million. Non-cash net expenses were primarily comprised of $4.95 million of depreciation and amortization, $0.75 million of stock-based compensation, $0.13 million of bad debt expense, $0.21 million of amortization of deferred finance costs, a $0.45 million non-cash loss on extinguishment of debt, and a deferred income tax benefit of $(2.02) million. The net change in operating assets and liabilities was primarily comprised of an increase in inventory of $(2.21) million and an increase in accounts receivable of $(2.06) million. The change in accounts receivable was primarily related to the timing and volume of sales and collections, while the change in inventory is primarily related to expected increases in wholesales, including our drop-ship programs, and an increase in our direct-to-consumer businesses.

The prior year nine months cash provided by operating activities was primarily attributable to the combination of the net loss of $(2.63) million plus non-cash expenses of approximately $5.77 million and the net change in operating assets and liabilities of approximately $(0.94) million. The net loss of $(2.63) million includes $1.81 million of government assistance received through the PPP under the CARES Act, which was recognized as a reduction to prior year nine months expenses for which the program was intended to compensate. Non-cash net expenses were primarily comprised of $4.07 million of depreciation and amortization, $0.78 million of stock-based compensation, $1.05 million of bad debt expense, and a deferred income tax benefit of $(0.27) million. The net change in operating assets and liabilities includes a decrease in accounts receivable of $1.38 million, a decrease in accounts payable, accrued expenses and other current liabilities of $(2.40) million, a decrease in inventory of $0.18 million, a decrease in prepaid expenses and other assets of $0.19 million, and cash paid in excess of rent expense of $(0.28) million. The net change in accounts receivable was attributable to a combination of the timing of collections, increased allowance for doubtful accounts, and lower revenues recognized as a result of the COVID-19 pandemic. The net change in accounts payable, accrued expenses and other current liabilities was due to timing of payments, as well as actions taken by management during the prior year nine months in response to the COVID-19 pandemic to conserve cash.

Investing Activities

Net cash used in investing activities for the current nine months was approximately $4.75 million, which was primarily attributable to the acquisition of the Lori Goldstein brand on April 1, 2021, and, to a lesser extent, to capital expenditures relating to the fit-out and furnishing of our new Judith Ripka fine jewelry retail store, which opened in June 2021.

Net cash used in investing activities for the prior year nine months was approximately $0.65 million, primarily attributable to capital expenditures, a substantial portion of which related to the implementation of our ERP system.

Financing Activities

Net cash provided by financing activities for the current nine months was approximately $8.93 million, and was primarily attributable to $25.0 million of proceeds from our new term loan debt entered into on April 14, 2021, as well as $2.5 million of proceeds drawn from our new revolving loan facility. Also contributing to cash inflows from financing activities was a $1.0 million capital contribution in Longaberger Licensing, LLC by the non-controlling interest holder. Partially offsetting these proceeds were $(16.75) million paid on the balance of our previous term loan, $(0.37) million of fees paid to the previous debtholders in connection with the extinguishment of the previous term loan, $(1.20) million of deferred finance costs paid in connection with our new term loan, and $(1.25) million of scheduled principal payments made under our new term loan.

Net cash (used in) financing activities for the prior year nine months was approximately $(1.41) million, and was primarily attributable to payments made on long-term debt obligations of $(1.50) million, cash contributions received from the non-controlling interest holder in Longaberger Licensing, LLC of $0.30 million, and $(0.19) million of shares repurchased related to vested restricted stock in exchange for withholding taxes.

Other Factors

We continue to seek to expand and diversify the types of products being produced and licensed under our brands. We plan to continue to diversify the distribution channels within which products are sold, in an effort to reduce dependence on any particular retailer, consumer, or market sector within each of our brands. The Mizrahi brand, Halston brand, Lori Goldstein brand, and C Wonder brand have a core business in fashion apparel and accessories. The Ripka brand is a fine jewelry business, and the Longaberger brand focuses on home good products, which we believe helps diversify our industry focus while at the same time complements our business operations and relationships.

We continue to work towards expanding our wholesale and direct-to-consumer e-commerce businesses, and complement these operations with our licensing business.

In addition, we continue to seek new opportunities, including expansion through interactive television, our design, production and supply chain platform, additional domestic and international licensing arrangements, and acquiring additional brands. In April 2021, we acquired the Lori Goldstein brand, which is currently available and sold to consumers through QVC.

However, the impacts of the current COVID-19 pandemic are broad reaching and are having an impact on our licensing and wholesale businesses. This global pandemic is impacting our supply chain, and temporary factory closures and the pace of workers returning to work have impacted our contract manufacturers’ ability to source certain raw materials and to produce finished goods in a timely manner. The pandemic is also impacting distribution and logistics providers' ability to operate in the normal course of business. In addition, COVID-19 has resulted in a sudden and continuing decrease in sales for many of our products, resulting in order cancellations. Further, the global pandemic has affected the financial health of certain of our customers, and the bankruptcy of certain other customers, from which we had an aggregate of approximately $1.5 million of accounts receivable due at September 30, 2021. As a result, we have recognized an allowance for doubtful accounts of approximately $1.1 million as of September 30, 2021, and may be required to make additional adjustments for doubtful accounts which would increase our operating expenses in future periods and negatively impact our operating results, and could result in our failure to meet financial covenants under our credit facility. Financial impacts associated with the COVID-19 pandemic include, but are not limited to, lower net sales, adjustments to allowances for doubtful accounts due to customer bankruptcy or other inability to pay their amounts due to vendors, the delay of inventory production and fulfillment, potentially further impacting net sales, and potential incremental costs associated with mitigating the effects of the pandemic, including increased freight and logistics costs and other expenses. The impact of the COVID-19 pandemic is expected to continue to have an adverse effect on our operating results, which could result in our inability to comply with certain debt covenants and require BHI to waive compliance with, or agree to amend, any such covenant to avoid a default. The COVID-19 global pandemic is ongoing, and its dynamic nature, including uncertainties relating to the severity and duration of the pandemic, as well as actions that would be taken by governmental authorities to contain the pandemic or to treat its impact, makes it difficult to forecast any effects on our 2021 results. However, as of the date of this filing, we expect our results for some portion of 2021 to be significantly affected.

In addition, the global shipping industry is currently experiencing challenges related to port delays and tight availability for carriers and containers. This situation has negatively impacted our supply chain partners, including third party manufacturers, logistics providers, and other vendors, as well as the supply chains of our licensees, and has resulted in increased cost of supply and freight costs. Such higher costs are currently expected to continue for the remainder of 2021 and at least some portion of 2022.

Off-Balance Sheet Arrangements

We do not have any off-balance sheet arrangements that have or are reasonably likely to have a current or future material effect on our financial condition, results of operations, or liquidity.

Critical Accounting Policies

The preparation of our unaudited condensed consolidated financial statements in conformity with GAAP requires management to exercise judgment. We exercise considerable judgment with respect to establishing sound accounting policies and in making estimates and assumptions that affect the reported amounts of our assets and liabilities, our recognition of revenues and expenses, and disclosure of commitments and contingencies at the date of the financial statements. We evaluate our estimates and judgments on an on-going basis. We base our estimates and judgments on a variety of factors, including our historical experience, knowledge of our business and industry, and current and expected economic conditions that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities that are not readily apparent from other sources. We periodically re-evaluate our estimates and assumptions with respect to these judgments and modify our approach when circumstances indicate that modifications are necessary. While we believe that the factors we evaluate provide us with a meaningful basis for establishing and applying sound accounting policies, we cannot guarantee that the results will always be accurate. Because the determination of these estimates requires the exercise of judgment, actual results could differ from such estimates.

Please refer to our Annual Report on Form 10-K for the year ended December 31, 2020, filed with the SEC on April 23, 2021, for a discussion of our critical accounting policies. During the three and nine months ended September 30, 2021, there were no material changes to our accounting policies.

ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Not applicable to smaller reporting companies.

ITEM 4. CONTROLS AND PROCEDURES

A. EVALUATION OF DISCLOSURE CONTROLS AND PROCEDURES:

Our management, under the supervision and with the participation of our Chief Executive Officer and Chief Financial Officer, evaluated the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”)) as of September 30, 2021, the end of the period covered by this report. Based on, and as of the date of such evaluation, the Chief Executive Officer and the Chief Financial Officer have concluded that our disclosure controls and procedures were not effective as of September 30, 2021, due to the material weakness described below.

As disclosed in our Annual Report on Form 10-K for the year ended December 31, 2020, filed with the SEC on April 23, 2021, our management concluded that our internal controls over financial reporting were not effective due to the material weakness set forth below. A material weakness is a deficiency, or a combination of control deficiencies, in internal control over financial reporting such that there is a reasonable possibility that a material misstatement of the Company’s annual or interim financial statements will not be prevented or detected on a timely basis.

The basis for the conclusion that such internal control was ineffective included the following considerations:

- the Company was unable to file its Annual Report on Form 10-K within the time specified in SEC rules and forms, due to material subsequent events occurring in the first quarter of 2021, including a significant brand acquisition and a significant debt refinancing transaction, and impacts of the ongoing COVID-19 pandemic on the Company’s processes; and

- the complexities in determining an impairment charge in the fourth quarter of 2020 related to the carrying value of one of the Company’s trademarks required additional time for a complete analysis.

The Company has hired additional personnel in its finance department to address the material weakness.

B. CHANGES IN INTERNAL CONTROL OVER FINANCIAL REPORTING:

There have not been any significant changes in our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) during the fiscal quarter ended September 30, 2021 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

ITEM 1. LEGAL PROCEEDINGS

In the ordinary course of business, from time to time we become involved in legal claims and litigation. In the opinion of management, based on consultations with legal counsel, the disposition of litigation currently pending against us is unlikely to have, individually or in the aggregate, a materially adverse effect on our business, financial position, or results of operations.

ITEM 1A. RISK FACTORS

We operate in a highly competitive industry that involves numerous known and unknown risks and uncertainties that could impact our operations. The risks described in Part I, Item 1A, “Risk Factors” of our Annual Report on Form 10-K for the year ended December 31, 2020 are not the only risks we face. Additional risks and uncertainties not currently known to us or that we currently deem to be immaterial also may materially adversely affect our financial condition and/or operating results.

ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

There were no sales of unregistered or registered securities during the three and nine months ended September 30, 2021.

ITEM 3. DEFAULTS UPON SENIOR SECURITIES

None.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

ITEM 5. OTHER INFORMATION

None.

ITEM 6. EXHIBITS

The following exhibits are filed herewith:

31.1 Rule 13a-14(a)/15d-14(a) Certification (CEO)
31.2 Rule 13a-14(a)/15d-14(a) Certification (CFO)
32.1 Section 1350 Certification (CEO)
32.2 Section 1350 Certification (CFO)
101.INS Inline XBRL Instance Document
101.SCH Inline XBRL Taxonomy Extension Schema Document
101.CAL Inline XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF Inline XBRL Taxonomy Extension Definitions Linkbase Document
101.LAB Inline XBRL Taxonomy Extension Label Linkbase Document
101.PRE Inline XBRL Taxonomy Extension Presentation Linkbase Document
104 Cover Page Interactive Data File (formatted as inline XBRL and contained in Exhibit 101)

SIGNATURES

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

Date: November 15, 2021	By:	/s/ Robert W. D'Loren
		Name: Robert W. D'Loren Title: Chairman and Chief Executive Officer
	By:	/s/ James Haran
		Name: James Haran Title: Chief Financial Officer and Vice President

AMENDMENT NO. 1 and WAIVER
to
LOAN AND SECURITY AGREEMENT

THIS AMENDMENT NO. 1 AND WAIVER TO LOAN AND SECURITY AGREEMENT (this "Amendment") is entered into as of August 12, 2021, by and among XCEL BRANDS, INC., a Delaware corporation ("Borrower"), each other signatory hereto that is a Credit Party under the Loan Agreement (as hereinafter defined), the financial institutions from time to time party to the Loan Agreement (collectively, "Lenders" and individually, each a "Lender"), BANK HAPOALIM B.M., ("BHI") as administrative agent and collateral agent for Lenders (BHI in such capacity together with its successors and assigns in such capacity, "Administrative Agent") and FEAC AGENT, LLC ("FEAC"), as co-collateral agent (FEAC in such capacity together with its successors and assigns in such capacity, "Co-Collateral Agent").

BACKGROUND

Borrower, IM Brands, LLC ("IM Brands"), JR Licensing, LLC, H Licensing, LLC, C Wonder Licensing, LLC, Xcel Design Group, LLC, Judith Ripka Fine Jewelry, LLC, H Heritage Licensing, LLC, Xcel-CT MFG, LLC and Gold Licensing, LLC (other than Borrower, collectively, "Guarantors"), Lenders and Agents are parties to a Loan and Security Agreement dated as of April 12, 2021 (as amended, restated, supplemented or otherwise modified from time to time, the "Loan Agreement") pursuant to which Lenders made term loans to Borrower secured by a Lien on substantially all of the assets of Borrower. Guarantors have guaranteed the payment and performance of Borrower's obligations to Lenders and Agents under the Loan Agreement which guarantee obligations are secured by a Lien on substantially all of the assets of Guarantors.

Borrower has requested that Lenders waive compliance with certain financial covenants, and make certain amendments to the Loan Agreement. Lenders and Agents have agreed to provide such waiver and amend the Loan Agreement on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the financial accommodations provided to Borrower by Lenders, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Definitions. All capitalized terms not otherwise defined herein shall have the meanings given to them in the Loan Agreement.

2. Waiver. Subject to the satisfaction of the conditions precedent set forth in Section 4 below, Lenders hereby waive the Event of Default arising from the failure of Borrower and the Included Subsidiaries on a consolidated basis to achieve EBITDA of at least $1,750,000 for the three month period ending June 30, 2021.

3. Amendment to Loan Agreement. Subject to the satisfaction of the conditions set forth in Section 4 below, the Loan Agreement is hereby amended as follows:

(a) The defined term "Maximum Revolving Loan Amount" in Section 1.1 amended to provide as follows:

"Maximum Revolving Loan Amount" means (a) until Borrower delivers a Compliance Certificate in accordance with Section 8.1(d) which shows compliance with the financial covenants set forth on Schedule V for the applicable periods ending December 31, 2021, $1,500,000 and (b) at all times thereafter, $4,000,000; provided that, if Borrower fails to comply with the financial covenants set forth on Schedule V as calculated in any Compliance Certificate delivered in accordance with Section 8.1(d), then from and after the date of such Compliance Certificate to the date of the Compliance Certificate next delivered in accordance with Section 8.1(d) showing compliance with the financial covenants set forth on Schedule V, the Maximum Revolving Loan Amount shall be $1,500,000.

(b) Section 8.1(d) is amended to provide as follows:

"(d) together with the Financial Statements delivered pursuant to Sections 8.1(a) and 8.1(c), a Compliance Certificate executed by a Responsible Officer of Borrower which shall include in reasonable detail (i) the calculations used in determining compliance with the financial covenants set forth on Schedule II and Schedule V, (ii) the exclusions with respect to changes in operating assets and liabilities as set forth on the cash flow statement of Borrower and the Included Subsidiaries as reported in the calculation of the Fixed Charge Coverage Ratio and (iii) detail with respect to the tax benefits of redemptions of Equity Interests in such period;"

(c) Schedule II (Financial Covenants) is replaced with Schedule II attached to this Amendment.

(d) Schedule V to this Amendment is inserted as Schedule V to the Loan Agreement.

(e) Exhibit D (Form of Compliance Certificate) is replaced with Exhibit D attached to this Amendment.

4. Conditions of Effectiveness. This Amendment shall become effective upon Agents' receipt of this Amendment duly executed by each Credit Party and each Lender and the payment to Administrative Agent for the benefit of each Lender a fee in the amount of 0.25% of the outstanding principal amount of the Term Loans.

5. Representations and Warranties. Each Credit Party hereby represents and warrants as follows:

(a) This Amendment constitutes the legal, valid and binding obligation of such Credit Party and is enforceable against such Credit Party in accordance with its terms, except to the extent that such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally or limiting the right of specific performance.

(b) Upon the effectiveness of this Amendment, all representations and warranties of such Credit Party contained in the Loan Documents to which it is a party continue to be true and correct in all material respects as of the date hereof, as if repeated as of the date hereof, except for such representations and warranties which, by their terms, are expressly made only as of a previous date.

(c) No Event of Default has occurred and is continuing or would exist after giving effect to this Amendment.

(d) No Credit Party has any defense, counterclaim or offset with respect to any of the Loan Documents.

6. Effect on the Loan Documents.

(a) Except as specifically set forth herein, the Loan Documents shall remain in full force and effect, and are hereby ratified and confirmed by each Credit Party a party thereto.

(b) The limited waivers set forth in Section 2 hereof are effective only for the specific instance and purpose set for the herein and shall not entitle Borrower or Guarantor to any further waiver in any similar or other circumstances. Except as specifically set forth herein, the execution, delivery and effectiveness of this Amendment shall not operate as a waiver of any right, power or remedy of Agents or any Lender nor constitute a waiver of any provision of any Loan Document.

7. Governing Law. This Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns and shall be governed by and construed in accordance with the laws of the State of New York.

8. Headings. Section headings in this Amendment are included herein for convenience of reference only and shall not constitute a part of this Amendment for any other purpose.

9. Counterparts; Electronic Transmission. This Amendment may be executed by the parties hereto in one or more counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same agreement. Any signature delivered by a party by facsimile or other electronic transmission shall be deemed to be an original signature hereto.

IN WITNESS WHEREOF, this Amendment has been duly executed as of the day and year first written above.

XCEL BRANDS, INC.

By: /s/ James Haran
Name: James Haran
Title: CFO

IM BRANDS, LLC
JR LICENSING, LLC
H LICENSING, LLC
C WONDER LICENSING, LLC
XCEL DESIGN GROUP, LLC
JUDITH RIPKA FINE JEWELRY, LLC
H HERITAGE LICENSING, LLC
XCEL-CT MFG, LLC
GOLD LICENSING, LLC

By: XCEL BRANDS, INC.,
Its Manager

By: /s/ James Haran
Name: James Haran
Title: CFO

BANK HAPOALIM B.M., as Administrative Agent

By: /s/ Barry S. Renow
Name: Barry S. Renow
Title: First Vice President

By: /s/ Michael Gorman III
Name: Michael Gorman III
Title: First Vice President

[additional signature pages follow]

FEAC AGENT, LLC, as Co-Collateral Agent.

By: /s/ Michelle Handy
Name: Michelle Handy
Title: Managing Director

[additional signature pages follow]

BANK HAPOALIM B.M., as a Lender

By: /s/ Barry S. Renow
Name: Barry S. Renow
Title: First Vice President

By: /s/ Michael Gorman III
Name: Michael Gorman III
Title: First Vice President

[additional signature pages follow]

FIRST EAGLE ALTERNATIVE CAPITAL BDC, INC., as a Lender

By: /s/ Michelle Handy
Name: Michelle Handy
Title: Managing Director

FIRST EAGLE DIRECT LENDING FUND IV, LLC, as a Lender

By: First Eagle Alternative Credit, LLC
Its: Manager

By: /s/ Michelle Handy
Name: Michelle Handy
Title: Managing Director

FIRST EAGLE DIRECT LENDING IV CO-INVEST, LLC, as a Lender

By: First Eagle Alternative Credit, LLC
Its: Manager

By: /s/ Michelle Handy
Name: Michelle Handy
Title: Managing Director

FIRST EAGLE DIRECT LENDING LEVERED FUND IV SPV, LLC, as a Lender

By: First Eagle Direct Lending Levered Fund IV, LLC
Its: Manager

By: /s/ Michelle Handy
Name: Michelle Handy
Title: Managing Director

SCHEDULE II

FINANCIAL COVENANTS

1. Minimum EBITDA. EBITDA of Borrower and the Included Subsidiaries on a consolidated basis shall not be less than the amounts set forth below at the end of the applicable fiscal period set forth below:

Fiscal Period	Minimum EBITDA
April 1, 2021 to September 30, 2021	$3,000,000
April 1, 2021 to December 31, 2021	$4,400,000
For the trailing twelve month period ending March 31, 2022	$6,000,000
For the trailing twelve month periods ending June 30, 2022 and September 30, 2022	$6,500,000
For the trailing twelve month periods ending December 31, 2022, March 31, 2023, June 30, 2023 and September 30, 2023	$7,000,000
For the trailing twelve month periods ending December 31, 2023, March 31, 2024, June 30, 2024, September 30, 2024, December 31, 2024 and March 31, 2025	$7,500,000

2. Minimum Liquid Assets. Liquid Assets of Borrower and the Included Subsidiaries on a consolidated basis shall be at least $4,000,000 at all times.

3. Fixed Charge Coverage Ratio. The Fixed Charge Coverage Ratio of Borrower and the Included Subsidiaries on a consolidated basis for (a) the nine month period ending on December 31, 2021 shall not be less than 1.05 to 1.00, (b) the twelve Fiscal Month period ending March 31, 2022 shall not be less than 1.20 to 1.00 and (c) the twelve Fiscal Month period ending at the end of each Fiscal Quarter commencing with the Fiscal Quarter ending June 30, 2022 shall not be less than 1.25 to 1.00.

4. Maximum Leverage Ratio. The Leverage Ratio of Borrower and the Included Subsidiaries on a consolidated basis for the twelve Fiscal Month period ending at the end of each Fiscal Quarter shall not exceed (a) 6.75 to 1.00 for the Fiscal Quarter ending December 31, 2021 and (b) 4.00 to 1.00 for each Fiscal Quarter ending on and after March 31, 2022.

5. Loan To Value Ratio. At no time shall the Loan to Value Ratio exceed 50%.

SCHEDULE V

FINANCIAL COVENANTS

1. Minimum EBITDA. EBITDA of Borrower and the Included Subsidiaries on a consolidated basis shall not be less than the amounts set forth below at the end of the applicable fiscal period set forth below:

Fiscal Period	Minimum EBITDA
April 1, 2021 to December 31, 2021	$6,500,000
For the trailing twelve month periods ending March 31, 2022, June 30, 2022 and September 30, 2022	$6,500,000
For the trailing twelve month periods ending December 31, 2022, March 31, 2023, June 30, 2023 and September 30, 2023	$7,000,000
For the trailing twelve month periods ending December 31, 2023, March 31, 2024, June 30, 2024, September 30, 2024, December 31, 2024 and March 31, 2025	$7,500,000

2. Minimum Liquid Assets. Liquid Assets of Borrower and the Included Subsidiaries on a consolidated basis shall be at least $4,000,000 at all times.

3. Fixed Charge Coverage Ratio. The Fixed Charge Coverage Ratio of Borrower and the Included Subsidiaries on a consolidated basis for the twelve Fiscal Month period ending at the end of each Fiscal Quarter commencing with the Fiscal Quarter ending December 31, 2021 shall not be less than 1.25 to 1.00.

4. Maximum Leverage Ratio. The Leverage Ratio of Borrower and the Included Subsidiaries on a consolidated basis for the twelve Fiscal Month period ending at the end of each Fiscal Quarter shall not exceed (a) 4.50 to 1.00 for the Fiscal Quarter ending December 31, 2021 and (b) 4.00 to 1.00 for each Fiscal Quarter ending on and after March 31, 2022.

5. Loan To Value Ratio. At no time shall the Loan to Value Ratio exceed 50%.

EXHIBIT D

FORM OF CERTIFICATE OF COMPLIANCE

[Date]

This Compliance Certificate (this "Certificate") is given by Xcel Brands, Inc., a Delaware corporation (the "Borrower"), pursuant to that certain Loan and Security Agreement, dated as of April 12, 2021, among Borrower, the other Credit Parties party thereto from time to time, Lenders party thereto from time to time, Bank Hapoalim B.M., as administrative agent and collateral agent for such Lenders and FEAC Agent, LLC, as co-collateral agent for such Lenders (as such agreement may be amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Loan Agreement"). Capitalized terms used herein without definition shall have the meanings set forth in the Loan Agreement.

The undersigned is a Responsible Officer of Borrower and is duly authorized to execute and deliver this Certificate on behalf of Credit Parties. By executing this Certificate, such officer of Borrower hereby certifies to the Agents and Lenders on behalf of Credit Parties that:

1. The Financial Statements attached hereto for the Fiscal **[Q*uarter*][*Year*]** ending _____________________ are true and complete in all material respects and fairly present in all material respects the financial condition of Borrower and the Included Subsidiaries as at the end of such Fiscal **[*Quarter*][*Year*]**.

2. The calculations set forth in Annex 1 are computations of the financial covenants set forth on Schedule II and Schedule V of the Loan Agreement calculated from the Financial Statements in accordance with the terms of the Loan Agreement.

3. Attached as Annex 2 is the calculation of revenue from the Revenue Licenses and no Trigger Event has occurred

4. Based upon a review of the activities of Borrower and the Included Subsidiaries and the Financial Statements during the period covered thereby, as of the date hereof, [no Default or Event of Default has occurred under the Credit Agreement][a Default or Event of Default has occurred, as described on Annex 3 hereto, and the action proposed to be taken with respect thereto is described on Annex 3 hereto].

5. Annex 4 sets forth a list of each new Material Contract entered into by any Credit Party since the date of the last Compliance Certificate delivered pursuant to the Loan Agreement. Except as set forth on Annex 4, there has been no termination of, any amendment to or other modification of or any default under, any QVC Agreement.

6. Except as set forth on Annex 4, there has been no amendment to or other modification of any Employment Agreement, any termination of any Employment Agreement or any breach of any Employment Agreement which is not cured in any applicable grace period.

7. Except as set forth on Annex 4, there has been no termination of any other Material Contract which the applicable Credit Party has not replaced within sixty (60) days of such termination, with a similar agreement which generates revenue at least equivalent to the agreement which was terminated.

8. No Credit Party has formed or acquired any Subsidiary except for: [List new Subsidiaries, including Excluded Subsidiaries, Exempt Subsidiaries and Equity Funded Subsidiaries].

9.. The following is a list of Outside Financing obtained by each Excluded Subsidiary: [List Outside Financing].

10. The following is a list of Seller Financing and Take Back Financing obtained by each Exempt Subsidiary: [List Seller Financing and Take Back Financing].

IN WITNESS WHEREOF, the undersigned has caused this Certificate to be executed as of the date first above written.

XCEL BRANDS, INC.,
as Borrower

By:_________
Name:
Title:

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EXHIBIT 31.1

CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Robert W. D'Loren, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q for the quarter ended September 30, 2021 of Xcel Brands, Inc. (the "Company").

2. Based on my knowledge, this quarterly 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 quarterly report;

3. Based on my knowledge, the financial statements, and other financial information included in this quarterly 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 quarterly 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 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 controls 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.

November 15, 2021	By: /s/ Robert W. D'Loren
	Name: Robert W. D'Loren
	Title: Chairman and Chief Executive Officer

CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350, AS ADOPTED PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, James Haran, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q for the quarter ended September 30, 2021 of Xcel Brands, Inc. (the “Company”).

2. Based on my knowledge, this quarterly 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 quarterly report;

3. Based on my knowledge, the financial statements, and other financial information included in this quarterly 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 quarterly 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 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 Company’s board of directors (or persons performing the equivalent functions):

a) All significant deficiencies and material weaknesses in the design or operation of internal controls 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.

November 15, 2021

By: /s/ James Haran
Name: James Haran
Title: Chief Financial Officer and Vice President

EXHIBIT 32.1

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

In connection with the Quarterly Report of Xcel Brands, Inc. (the "Company") on Form 10-Q for the period ended September 30, 2021 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Robert W. D'Loren, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

(1) 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 the Company.

November 15, 2021	By:	/s/ Robert W. D'Loren
		Name: Robert W. D'Loren
		Title: Chairman and Chief Executive Officer

EXHIBIT 32.2

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

In connection with the Quarterly Report of Xcel Brands, Inc. (the "Company") on Form 10-Q for the period ended September 30, 2021 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, James Haran, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

(1) 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 the Company.

November 15, 2021	By:	/s/ James Haran
		Name: James Haran
		Title: Chief Financial Officer and Vice President