SPHERIX INC
Form 10-Q
November 14, 2018

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

(Mark one)

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

For the quarterly period ended September 30, 2018

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 000-05576

SPHERIX INCORPORATED

(Exact name of Registrant as specified in its charter)

Delaware	52-0849320
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

One Rockefeller Plaza

New York, NY 10020

(Address of principal executive offices)

(212) 745-1374

(Registrant's telephone number, including area code)

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the 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 and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the Registrant was required to submit such files.) Yes No

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

Large Accelerated Filer Accelerated Filer Non-accelerated Filer Smaller Reporting Company Emerging Growth Company

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

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

Indicate the number of shares outstanding of each of the Registrant's classes of Common Stock, as of the latest practicable date.

Class	Outstanding as of November 13, 2018
Common Stock, $0.0001 par value	8,542,530 shares

Spherix Incorporated and Subsidiaries

Form 10-Q

For the Quarter Ended September 30, 2018

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Part I. Financial Information

Item 1. Financial Statements

SPHERIX INCORPORATED AND SUBSIDIARIES

Condensed Consolidated Balance Sheets

($ in thousands except per share amounts)

	September 30 2018 (Unaudited)	**December 31 2017**
ASSETS		
Current assets		
Cash and cash equivalents	$109	$197
Marketable securities	3,409	3,998
Prepaid expenses and other assets	76	150
Total current assets	3,594	4,345
Property and equipment, net	1	3
Patent portfolios and patent rights, net	1,500	3,578
Investments at fair value	2,725	1,020
Deposit	26	26
Total assets	$7,846	$8,972
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities		
Accounts payable and accrued expenses	$68	$56
Accrued salaries and benefits	578	695
Warrant liabilities	262	822
Payable to DatChat	348	—
Short-term deferred revenue	—	957
Short-term lease liabilities	—	48
Total current liabilities	1,256	2,578
Long-term deferred revenue	—	2,288
Total liabilities	1,256	4,866
Stockholders' equity		
Series D: 4,725 shares issued and outstanding at September 30, 2018 and December 31, 2017; liquidation value of $0.0001 per share	—	—

Series D-1: 834 shares issued and outstanding at September 30, 2018 and December 31, 2017; liquidation value of $0.0001 per share	—	—
Common stock, $0.0001 par value, 100,000,000 shares authorized; 8,542,542 and 6,234,910 shares issued at September 30, 2018 and December 31, 2017, respectively; 8,542,530 and 6,234,898 shares outstanding at September 30, 2018 and December 31, 2017, respectively	1	—
Additional paid-in-capital	152,438	149,425
Treasury stock, at cost, 12 shares at September 30, 2018 and December 31, 2017	(264)	(264)
Accumulated deficit	(145,585)	(145,055)
Total stockholders' equity	6,590	4,106
Total liabilities and stockholders' equity	$7,846	$8,972

See accompanying notes to condensed consolidated financial statements

SPHERIX INCORPORATED AND SUBSIDIARIES

Condensed Consolidated Statements of Operations

($ in thousands except per share amounts)

(Unaudited)

	Three Months Ended September 30,		Nine Months Ended September 30,	
	2018	2017	2018	2017
Revenues	$—	$314	$—	$952
Operating costs and expenses				
Amortization of patent portfolio	346	346	1,027	1,027
Compensation and related expenses (including stock-based compensation)	206	488	903	1,371
Professional fees	210	280	1,202	815
Impairment of intangible assets	1,051	—	1,051	—
Rent	16	21	57	70
Depreciation expense	21	1	38	2
Acquisition costs	19	—	230	—
Other selling, general and administrative	82	137	282	372
Total operating expenses	1,951	1,273	4,790	3,657
Loss from operations	(1,951)	(959)	(4,790)	(2,705)
Other (expenses) income				
Other (expenses) income, net	(35)	6	(225)	299
Change in fair value of investment	—	345	680	345
Change in fair value of warrant liabilities	95	1,067	560	(259)
Total other income	60	1,418	1,015	385
Net (loss) income	$(1,891)	$459	$(3,775)	$(2,320)
Net income (loss) per share attributable to common stockholders, basic and diluted				
Basic	$(0.22)	$0.08	$(0.48)	$(0.44)
Diluted	$(0.22)	$0.08	$(0.48)	$(0.44)
Weighted average number of common shares outstanding,				
Basic	8,542,530	5,998,920	7,894,936	5,304,201
Diluted	8,542,530	6,009,042	7,894,936	5,304,201

See accompanying notes to condensed consolidated financial statements

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SPHERIX INCORPORATED AND SUBSIDIARIES

Consolidated Statements of Changes in Stockholders’ Equity

($ in thousands except per share amounts)

(Unaudited)

	Common Stock		Preferred Stock		Additional Paid-in	Treasury Stock		Accumulated Deficit	Total Stockholder’ Equity
	Shares	Amount	Shares	Amount	Capital	Shares	Amount		
Balance at December 31, 2017	6,234,898	$ —	5,559	$ —	$ 149,425	12	$ (264)	$ (145,055)	$ 4,106
Issuance common stock in equity raise, net of offering cost	2,222,222	1	—	—	2,699	—	—	—	2,700
Stock-based compensation	85,410	—	—	—	314	—	—	—	314
Cumulative effect of the changes related to adoption of ASC 606	—	—	—	—	—	—	—	3,245	3,245
Net loss	—	—	—	—	—	—	—	(3,775)	(3,775)
Balance at September 30, 2018	8,542,530	$ 1	5,559	$ —	$ 152,438	12	$ (264)	$ (145,585)	$ 6,590

See accompanying notes to condensed consolidated financial statements

SPHERIX INCORPORATED AND SUBSIDIARIES

Condensed Consolidated Statements of Cash Flows

($ in thousands)

(Unaudited)

	Nine Months Ended September 30,	
	2018	2017
Cash flows from operating activities		
Net loss	$(3,775)	$(2,320)
Adjustments to reconcile net loss to net cash used in operating activities:		
Amortization of patent portfolio	1,027	1,027
Change in fair value of investment	(680)	(345)
Change in fair value of warrant liabilities	(560)	259
Stock-based compensation	314	13
Depreciation expense	38	2
Realized loss on marketable securities	361	303
Unrealized loss (gain) on marketable securities	14	(262)
Impairment of intangible assets	1,051	—
Changes in assets and liabilities:		
Prepaid expenses and other assets	74	93
Accounts payable and accrued expenses	12	(75)
Accrued salaries and benefits	(117)	(177)
Deferred revenue	—	(932)
Accrued lease liabilities	(48)	(133)
Net cash used in operating activities	(2,289)	(2,547)
Cash flows from investing activities		
Purchase of marketable securities	(13,310)	(11,283)
Sale of marketable securities	13,524	12,533
Purchase of investments at fair value	(677)	(675)
Purchase of property and equipment	(36)	—
Net cash (used in) provided by investing activities	(499)	575
Cash flows from financing activities		
Cash from issuance common stock, net of offering cost	2,700	2,095
Repurchase of restricted stock units to pay for employee withholding taxes	—	(24)
Net cash provided by financing activities	2,700	2,071
Net (decrease) increase in cash and cash equivalents	(88)	99
Cash and cash equivalents, beginning of period	197	134

Cash and cash equivalents, end of period	$109	$233
Cash paid for interest and taxes	$—	$195
Investment in DatChat	$348	$—

See accompanying notes to condensed consolidated financial statements

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Note 1. Organization and Description of Business

Organization and Description of Business

Spherix Incorporated (the "Company") is an intellectual property company incorporated in the State of Delaware that owns patented and unpatented intellectual property. The Company was formed in 1967 as a scientific research company and for much of its history pursued drug development including through Phase III clinical studies which were discontinued. Through the Company's acquisition of patents and patent applications developed by Nortel Networks Corporation from Rockstar Consortium US, LP ("Rockstar") and Harris Corporation from North South Holdings Inc. ("North South") in 2013, the Company has expanded its activities.

The Company is a patent commercialization company focused on generating revenues from the monetization of intellectual property, or IP. Such monetization includes, but is not limited to, acquiring IP from patent holders in order to maximize the value of the patent holdings by conducting and managing a licensing campaign, or through the settlement and litigation of patents. We intend to generate revenues and related cash flows from the granting of intellectual property rights for the use of patented technologies that we own, that we manage for others, or that others manage on our behalf. To date, we have generated minimal revenues and no assurance can be provided that our business model will be successful.

In addition to our patent monetization efforts, since the fourth quarter of 2017, we have been transitioning to focus our efforts as a technology development company. These efforts have focused on biotechnology research and blockchain technology research. The Company's biotechnology research development includes investments in Hoth Therapeutics Inc. and the proposed merger with CBM BioPharma, Inc. ("CBM").

Hoth Therapeutics is a development stage biopharmaceutical company focused on proprietary therapeutics for patients suffering from indications such as atopic dermatitis, also known as eczema. To treat indications impacting more than 32 million Americans, Hoth is working to develop and commercialize the BioLexa™ Platform, a proprietary, patented, drug compound platform developed at the University of Cincinnati. The BioLexa™ Platform has achieved positive results at preclinical studies conducted at the University of Miami.

In addition to Hoth, the Company is proposing a merger with CBM. In October 2018, the Company entered into an agreement and plan of merger, subject to shareholder approval, with CBM BioPharma, Inc. ("CBM"), a pharmaceutical company focusing on the development of cancer treatments, pursuant to which all shares of capital stock of CBM will be converted into the right to receive an aggregate of 15,000,000 shares of the Company's common stock with CBM continuing as the surviving corporation in the merger.

In the field of blockchain research, the Company previously entered into an agreement and plan of merger, subject to shareholder approval, with DatChat, Inc. (the "DatChat Merger"), a secure messaging application that utilizes blockchain technology. After further negotiations, the Company determined not to pursue a merger with DatChat and on August 8, 2018, entered into a Securities Purchase Agreement with DatChat pursuant to which the Company and DatChat agreed to terminate the DatChat Merger and the Company agreed to make a $1,000,000 strategic investment in DatChat which consisted of (a) a cash payment of $500,000, (b) the forgiveness of prior advances made to DatChat by the Company, and (c) an obligation of the Company to pay certain specific future compensation expenses of DatChat (amounts in clauses (b) and (c) not to exceed a maximum of $500,000 in the aggregate); in exchange for $1,000,000 of restricted shares of DatChat common stock which is equal to 4.37% of the issued and outstanding common stock of DatChat. Pursuant to the Securities Purchase Agreement, the Company applied a total of approximately $152,000 prior advances towards its investment in DatChat ("Prior Incurred Amount"), including $131,000 of compensation related costs and $21,000 professional fees. The Company also recorded approximately $348,000 compensation expenses payable to DatChat ("Payable to DatChat") in addition to the $152,000 advances to reach the $500,000 maximum.

The breakdown of investment at Datchat as September 30, 2018 are as follows ($ in thousands):

	DatChat Investment as of September 30, 2018
Cash Payment	$ 500
Prior Incurred Amount Made to DatChat	152
Payable to DatChat	348
Total	1,000

Note 2. Liquidity and Financial Condition

The Company continues to incur ongoing administrative and other expenses, including public company expenses, in excess of corresponding (non-financing related) revenue. While the Company continues to implement its business strategy, it intends to finance its activities through:

managing current cash and cash equivalents on hand from the Company’s past debt and equity offerings,
seeking additional funds raised through the sale of additional securities in the future,
seeking additional liquidity through credit facilities or other debt arrangements, and
increasing revenue from its patent portfolios, license fees and new business ventures.

Management believes the Company currently has sufficient funds to meet its operating requirements for at least the next twelve months.

The Company’s ultimate success is dependent on its ability to obtain additional financing and generate sufficient cash flow to meet its obligations on a timely basis. The Company’s business will require significant amounts of capital to sustain operations and make the investments it needs to execute its longer-term business plan to support new technologies and help advance innovation. The Company’s working capital amounted to approximately $2.3 million at September 30, 2018. Absent generation of sufficient revenue from the execution of the Company’s long-term business plan, the Company will need to obtain additional debt or equity financing, especially if the Company experiences downturns in its business that are more severe or longer than anticipated, or if the Company experiences significant increases in expense levels resulting from being a publicly-traded company or operations. If the Company attempts to obtain additional debt or equity financing, the Company cannot assume that such financing will be available to the Company on favorable terms, or at all.

Disputes regarding the assertion of patents and other intellectual property rights are highly complex and technical. The Company may be forced to litigate against others to enforce or defend its intellectual property rights or to determine the validity and scope of other parties’ proprietary rights. The defendants or other third parties involved in the lawsuits in which the Company is involved may allege defenses and/or file counterclaims or initiate inter-party reviews in an effort to avoid or limit liability and damages for patent infringement or cause the Company to incur additional costs as a strategy. If such efforts are successful, they may have an impact on the value of the patents and preclude the Company from deriving revenue from the patents. The patents could be declared invalid by a court or the United States Patent and Trademark Office, in whole or in part, or the costs of the Company can increase. Recent rulings also create an increased risk that if the Company is unsuccessful in litigation it could be responsible to pay the attorneys’ fees and other costs of defendants by lowering the standard for legal fee shifting sought by defendants in patent cases.

Note 3. Summary of Significant Accounting Policies

Basis of Presentation and Principles of Consolidation

The accompanying consolidated financial statements include the accounts of the Company and its wholly-owned subsidiaries, Nuta Technology Corp. (“Nuta”), Spherix Portfolio Acquisition II, Inc. (“SPAII”), Guidance IP, LLC (“Guidance”), Directional IP, LLC (“Directional”), Spherix Management Services, LLC (“SMS”), Spherix Delaware Merger Sub Inc. (“Merger Sub”), Spherix Merger Subsidiary, Inc (“SMSI”) and NNPT, LLC (“NNPT”). All significant intercompany balances and transactions have been eliminated in consolidation.

Use of Estimates

The accompanying consolidated financial statements have been prepared in conformity with accounting principles generally accepted in the United States of America (“US GAAP”). This requires management to make estimates and assumptions that affect certain reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenue and expenses during the period. The Company’s significant estimates and assumptions include the recoverability and useful lives of long-lived assets, stock-based compensation, the valuation of derivative liabilities, the valuation of investments and the valuation allowance related to the Company’s deferred tax assets. Certain of the Company’s estimates, including the carrying amount of the intangible assets, could be affected by external conditions, including those unique to the Company and general economic conditions. It is reasonably possible that these external factors could have an effect on the Company’s estimates and could cause actual results to differ from those estimates and assumptions.

Concentration of Cash

The Company maintains cash balances at two financial institutions in checking accounts and money market accounts. The Company considers all highly liquid investments with original maturities of three months or less when purchased to be cash and cash equivalents. As of September 30, 2018 and December 31, 2017, the Company had $0.1 million and 0.2 million, respectively, in cash and cash equivalents. The Company has not experienced any losses in such accounts and believes it is not exposed to any significant credit risk on cash.

Marketable Securities

Marketable securities are classified as trading and are carried at fair value. The Company’s marketable securities consist of corporate bonds and highly liquid mutual funds which are valued at quoted market prices.

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The realized gain or loss, unrealized gain or loss, and dividend income related to marketable securities for the three and nine months ended September 30, 2018 and 2017 are as follows ($ in thousands):

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,	
	2018	2017	2018	2017
Realized gain (loss)	$(86)	$(174)	$(361)	$(303)
Unrealized gain (loss)	3	124	(14)	262
Dividend income	44	18	121	72
	$(39)	$(32)	$(254)	$31

The Company reinvested such dividend income into its marketable securities during the nine months ended September 30, 2018 and 2017. The fair values of such marketable securities held as of September 30, 2018 and December 31, 2017 were $3.4 million and $4.0 million, respectively.

The marketable securities were classified as a Level 2 financial instrument at September 30, 2018 (see Note 8).

Investment

The Company records its investment in Hoth Therapeutics, Inc., a Nevada corporation (“Hoth”) at fair value. As of September 30, 2018, the fair value of this investment was $1,700,000. The Company also records its investment in TheBit Daily LLC, a Delaware limited liability company (“TheBit Daily”) at fair value. As of September 30, 2018, the fair value of this investment was $25,000. In addition, the Company made an $1,000,000 investment in DatChat on August 8, 2018. These investments were classified as a Level 3 financial instrument at September 30, 2018 (see Note 8).

While the Company believes its valuation methods are appropriate and consistent with other market participants, the use of different methodologies or assumptions to determine the fair value of certain financial instruments could result in a different estimate of fair value at the reporting date.

The decision to elect the fair value option, which is irrevocable once elected, is determined on an instrument by instrument basis and applied to an entire instrument. The net gains or losses, if any, are recognized as an unrealized gain on investment in the Condensed Consolidated Statements of Operations.

Net Loss per Share

Basic loss per share is computed by dividing the net income or loss applicable to common shares by the weighted average number of common shares outstanding during the period. Net income (loss) attributable to common stockholders includes the effect of the deemed capital contribution on extinguishment of preferred stock and the deemed dividend related to the immediate accretion of beneficial conversion feature of convertible preferred stock. Diluted earnings per share is computed using the weighted average number of common shares and, if dilutive, potential common shares outstanding during the period. Potential common shares consist of the incremental common shares issuable upon the exercise of stock options (using the treasury stock method) and the conversion of the Company's convertible preferred stock and warrants (using the if-converted method). Diluted loss per share excludes the shares issuable upon the conversion of preferred stock and the exercise of stock options and warrants from the calculation of net loss per share if their effect would be anti-dilutive.

Securities that could potentially dilute loss per share in the future that were not included in the computation of diluted loss per share at September 30, 2018 and 2017 are as follows:

	As of September 30,	
	2018	2017
Convertible preferred stock	2,926	2,926
Warrants to purchase common stock	1,249,754	1,251,709
Options to purchase common stock	528,490	328,716
Total	1,781,170	1,583,351

Revenue Recognition

The Company recognizes revenue when it is realized or realizable and earned. We consider revenue realized or realizable and earned when there is persuasive evidence of an arrangement when the services have been provided to the customer, the sales price is fixed or determinable and collectability is probable. Our material revenue stream is related to revenue generated from its settlement and licensing agreements. The appropriate recognition of revenue is determined as one performance obligation and revenue is recognized upon delivery of the final performance obligations, including the license for past and future use and the release.

The Company recognizes revenue under ASC 606, *Revenue from Contracts with Customers*. The core principle of the new revenue standard is that a company should recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the company expects to be entitled in exchange for those goods or services. The following five steps are applied to achieve that core principle:

Step 1: Identify the contract with the customer

Step 2: Identify the performance obligations in the contract

Step 3: Determine the transaction price

Step 4: Allocate the transaction price to the performance obligations in the contract

Step 5: Recognize revenue when the company satisfies a performance obligation

In order to identify the performance obligations in a contract with a customer, a company must assess the promised goods or services in the contract and identify each promised good or service that is distinct. A performance obligation meets ASC 606's definition of a "distinct" good or service (or bundle of goods or services) if both of the following criteria are met:

The customer can benefit from the good or service either on its own or together with other resources that are readily available to the customer (i.e., the good or service is capable of being distinct).
The entity's promise to transfer the good or service to the customer is separately identifiable from other promises in the contract (i.e., the promise to transfer the good or service is distinct within the context of the contract).

If a good or service is not distinct, the good or service is combined with other promised goods or services until a bundle of goods or services is identified that is distinct.

The transaction price is the amount of consideration to which an entity expects to be entitled in exchange for transferring promised goods or services to a customer. The consideration promised in a contract with a customer may include fixed amounts, variable amounts, or both. When determining the transaction price, an entity must consider the effects of all of the following:

Variable consideration

Constraining estimates of variable consideration

The existence of a significant financing component in the contract

Noncash consideration

Consideration payable to a customer

Variable consideration is included in the transaction price only to the extent that it is probable that a significant reversal in the amount of cumulative revenue recognized will not occur when the uncertainty associated with the variable consideration is subsequently resolved.

The transaction price is allocated to each performance obligation on a relative standalone selling price basis.

The transaction price allocated to each performance obligation is recognized when that performance obligation is satisfied, at a point in time or over time as appropriate.

As of September 30, 2018, there were no contract assets or liabilities associated with the Company's settlement and licensing agreements. During the nine months ended September 30, 2018, the Company did not generate any revenue.

Recently Issued Accounting Standards

In February 2016, the FASB issued ASU No. 2016-02, *Leases (Topic 842)*, which supersedes FASB ASC Topic 840, *Leases (Topic 840)* and provides principles for the recognition, measurement, presentation and disclosure of leases for both lessees and lessors. The new standard requires lessees to apply a dual approach, classifying leases as either finance or operating leases based on the principle of whether or not the lease is effectively a financed purchase by the lessee. This classification will determine whether lease expense is recognized based on an effective interest method or on a straight-line basis over the term of the lease, respectively. A lessee is also required to record a right-of-use asset and a lease liability for all leases with a term of greater than twelve months regardless of classification. Leases with a term of twelve months or less will be accounted for similar to existing guidance for operating leases. The standard is effective for annual and interim periods beginning after December 15, 2018, with early adoption permitted upon issuance. The adoption of this standard is not expected to have a material impact on the Company's consolidated financial position and results of operations.

In July 2017, the FASB issued ASU 2017-11, *Earnings Per Share (Topic 260), Distinguishing Liabilities from Equity (Topic 480) and Derivatives and Hedging (Topic 815): I. Accounting for Certain Financial Instruments with Down Round Features; II. Replacement of the Indefinite Deferral for Mandatorily Redeemable Financial Instruments of Certain Nonpublic Entities and Certain Mandatorily Redeemable Noncontrolling Interests with a Scope Exception*, (ASU 2017-11). Part I of this update addresses the complexity of accounting for certain financial instruments with down round features. Down round features are features of certain equity-linked instruments (or embedded features) that result in the strike price being reduced on the basis of the pricing of future equity offerings. Current accounting guidance creates cost and complexity for entities that issue financial instruments (such as warrants and convertible instruments) with down round features that require fair value measurement of the entire instrument or conversion option. Part II of this update addresses the difficulty of navigating Topic 480, Distinguishing Liabilities from Equity, because of the existence of extensive pending content in the FASB Accounting Standards Codification. This pending content is the result of the indefinite deferral of accounting requirements about mandatorily redeemable financial instruments of certain nonpublic entities and certain mandatorily redeemable noncontrolling interests. The amendments in Part II of this update do not have an accounting effect. This ASU is effective for fiscal years, and interim periods within those years, beginning after December 15, 2018. The Company is currently assessing the potential impact of adopting ASU 2017-11 on its financial statements and related disclosures.

In June 2018, the FASB issued ASU 2018-07, *Compensation-Stock Compensation (Topic 718): Improvements to Nonemployee Share-Based Payment Accounting* ("ASU 2018-07"). ASU 2018-07 simplifies several aspects of the accounting for nonemployee share-based payment transactions resulting from expanding the scope of Topic 718, Compensation-Stock Compensation, to include share-based payment transactions for acquiring goods and services from nonemployees. ASU 2018-07 is effective for public business entities for fiscal years beginning after December 15, 2018, including interim periods within that fiscal year. The Company is currently assessing the effect this guidance may have on its financial statements.

In August 2018, the SEC adopted the final rule under SEC Release No. 33-10532, Disclosure Update and Simplification, amending certain disclosure requirements that were redundant, duplicative, overlapping, outdated or superseded. In addition, the amendments expanded the disclosure requirements on the analysis of stockholders' equity for interim financial statements. Under the amendments, an analysis of changes in each caption of stockholders' equity presented in the balance sheet must be provided in a note or separate statement. The analysis should present a reconciliation of the beginning balance to the ending balance of each period for which a statement of comprehensive income is required to be filed. This final rule is effective on November 5, 2018. The Company is evaluating the impact of this guidance on its condensed consolidated financial statements.

In August 2018, the FASB issued ASU 2018-13, "Fair Value Measurement (Topic 820), – Disclosure Framework – Changes to the Disclosure Requirements for Fair Value Measurement," which makes a number of changes meant to add, modify or remove certain disclosure requirements associated with the movement amongst or hierarchy associated with Level 1, Level 2 and Level 3 fair value measurements. This guidance is effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2019. Early adoption is permitted upon issuance of the update. The Company does not expect the adoption of this guidance to have a material impact on its condensed consolidated Financial Statements.

Recently Adopted Accounting Standards

In May 2014, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") No. 2014-09, "Revenue from Contracts with Customers (Topic 606)" (ASU 2014-09) as modified by ASU No. 2015-14, "Revenue from Contracts with Customers (Topic 606): Deferral of the Effective Date," ASU 2016-08, "Revenue from Contracts with Customers (Topic 606): Principal versus Agent Considerations (Reporting Revenue Gross versus Net)," ASU No. 2016-10, "Revenue from Contracts with Customers (Topic 606): Identifying Performance Obligations and Licensing," and ASU No. 2016-12, "Revenue from Contracts with Customers (Topic 606): Narrow-Scope Improvements and Practical Expedients." The revenue recognition principle in ASU 2014-09 is that an entity should recognize revenue to depict the transfer of goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. In addition, new and enhanced disclosures will be required. Companies may adopt the new standard either using the full retrospective approach, a modified retrospective approach with practical expedients, or a cumulative effect upon adoption approach. The Company adopted the new standard effective January 1, 2018, using the modified retrospective approach. The Company has determined that its licenses represent functional intellectual property under Topic 606. Therefore, revenue is recognized at the point in time when the customer has the right to use the intellectual property rather than over the license period. Accordingly, the Company's deferred revenue related to its licenses was eliminated and accumulated deficit as of January 1, 2018 was decreased by approximately $3.2 million so that the Company will not recognize revenue on earnings statements in the future as to its license.

In January 2016, the FASB issued ASU No. 2016-01, *Recognition and Measurement of Financial Assets and Financial Liabilities*. ASU No. 2016-01 requires equity investments to be measured at fair value with changes in fair value recognized in net income; simplifies the impairment assessment of equity investments without readily determinable fair values by requiring a qualitative assessment to identify impairment; eliminates the requirement for public business entities to disclose the methods and significant assumptions used to estimate the fair value that is required to be disclosed for financial instruments measured at amortized cost on the balance sheet; requires public business entities to use the exit price notion when measuring the fair value of financial instruments for disclosure purposes; requires an entity to present separately in other comprehensive income the portion of the total change in the fair value of a liability resulting from a change in the instrument-specific credit risk when the entity has elected to measure the liability at fair value in accordance with the fair value option for financial instruments; requires separate presentation of financial assets and financial liabilities by measurement category and form of financial assets on the balance sheet or the accompanying notes to the financial statements; and clarifies that an entity should evaluate the need for a valuation allowance on a deferred tax asset related to available-for-sale securities in combination with the entity's other deferred tax assets. ASU No. 2016-01 is effective for financial statements issued for fiscal years beginning after December 15, 2017, and interim periods within those fiscal years. The Company adopted the provisions of ASU 2016-01 on January 1, 2018. The adoption of this update did not impact the Company's consolidated financial statements and related disclosures.

In May 2017, the Financial Accounting Standards Board (the FASB) issued ASU 2017-09, *Compensation-Stock Compensation (Topic 718): Scope of Modification Accounting*, (ASU 2017-09). ASU 2017-09 provides clarity and reduces both (1) diversity in practice and (2) cost and complexity when applying the guidance in Topic 718, to a change to the terms or conditions of a share-based payment award. The amendments in ASU 2017-09 should be applied prospectively to an award modified on or after the adoption date. This ASU is effective for fiscal years, and interim periods within those years, beginning after December 15, 2017. The Company adopted ASU 2017-09 on January 1, 2018. The adoption of this ASU did not have a material impact on the Company's financial position or results of operations.

Note 4. Investment in Hoth Therapeutics, Inc.

On June 30, 2017 (the "Closing Date"), the Company entered into a Securities Purchase Agreement (the "Purchase Agreement") with Hoth Therapeutics, Inc., a Nevada corporation ("Hoth"), for the purchase of an aggregate of 6,800,000 shares of common stock, par value $0.0001 (the "Shares"), of Hoth, for a purchase price of $675,000. Company records this investment at fair value and recorded changes in fair value in the statement of operations (see Note 8).

Note 5. Investment in TheBit Daily LLC

On March 23, 2018, Spherix Incorporated purchased 8.0% of the issued and outstanding limited liability company membership interests of TheBit Daily LLC, a development stage media and education platform focused on the blockchain and cryptocurrency space, for a subscription price of $25,000.

The Company records this investment at fair value and changes in fair value are recorded (see Note 8).

Note 6. Investment in DatChat, Inc.

On August 8, 2018, the Company entered into a securities purchase agreement (the “Securities Purchase Agreement”) with DatChat. Under the Securities Purchase Agreement, the Company agreed to make a $1,000,000 strategic investment in DatChat. See Note 1 for further explanation.

As described in Note 3 to these condensed consolidated financial statements, effective January 1, 2018, the Company adopted ASU 2016-01 concerning recognition and measurement of financial assets and financial liabilities. In adopting this new guidance, the Company has made an accounting policy election to adopt an adjusted cost method measurement alternative for its investment in DatChat. The Company records its investment at fair value and changes in fair value are recorded in the statement of operations (see Note 8).

Note 7. Intangible Assets

Patent Portfolio and Patent Rights

The Company's intangible assets with finite lives consist of its patents and patent rights. For all periods presented, all of the Company's identifiable intangible assets were subject to amortization. The carrying amounts related to acquired intangible assets as September 30, 2018 are as follows ($ in thousands):

	Net Carrying Amount	Weighted average amortization period (years)
Patent Portfolios and Patent Rights at December 31, 2017, net	$ 3,578	2.67
Amortization expenses	(1,027)	
Impairment loss	(1,051)	
Patent Portfolios and Patent Rights at September 30, 2018, net	$ 1,500	1.00

The amortization expenses related to acquired intangible assets for the nine months ended September 30, 2018 and 2017 are as follows ($ in thousands):

	Amortization Expense for the Three Months Ended September 30,		Amortization Expense for the Nine Months Ended September 30,	
Date Acquired and Description	2018	2017	2018	2017
7/24/13 - Rockstar patent portfolio	$ 18	$ 18	$ 54	$ 53
9/10/13 - North South patent portfolio	5	5	16	16
12/31/13 - Rockstar patent portfolio	323	323	957	958
	$ 346	$ 346	$ 1,027	$ 1,027

The Company reviews its patent portfolio for impairment as a single asset group whenever events or changes in circumstances indicate that the carrying value may not be recoverable. During the third quarter of 2018, the Company determined that certain events occurred that were indicators of a potential impairment. In accordance with ASC 360-10, the Company first estimated the future undiscounted cash flows anticipated to be generated by the patent portfolio based on the Company's current usage and future plans for the patent portfolio over its remaining weighted average useful life. Given the short-term nature of the patents the undiscounted cash flows approximate discounted cash flows. The analysis concluded that the carrying amount of the patent portfolio was not recoverable at September 30, 2018. As a result, the Company performed an analysis to determine if the carrying value of the patent portfolio exceeded its fair value. As a result, the Company determined that the fair value of the patent portfolio at September 30, 2018 was $1.5 million. The Company recorded a $1.1 million impairment charge against its patent portfolio in the third quarter of 2018. The new cost basis of the patent portfolio of $1.5 million will be amortized over its weighted average remaining useful life of 1.00 years.

The future amortization of these intangible assets was based on the adjusted carrying amount. Future amortization of all patents is as follows ($ in thousands):

	Rockstar Portfolio Acquired 24-Jul-13	North South Portfolio Acquired 10-Sep-13	Rockstar Portfolio Acquired 31-Dec-13	Total Amortization
Nine Months Ended December 31, 2018	42	15	321	378
Year Ended December 31, 2019	129	42	951	1,122
Total	$ 171	$ 57	$ 1,272	$ 1,500

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Note 8. Fair Value of Financial Assets and Liabilities

Financial instruments, including cash and cash equivalents, accounts and other receivables, accounts payable and accrued liabilities are carried at cost, which management believes approximates fair value due to the short-term nature of these instruments. The Company measures the fair value of financial assets and liabilities based on the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. The Company maximizes the use of observable inputs and minimizes the use of unobservable inputs when measuring fair value.

The Company uses three levels of inputs that may be used to measure fair value:

Level 1 - quoted prices in active markets for identical assets or liabilities

Level 2 - quoted prices for similar assets and liabilities in active markets or inputs that are observable

Level 3 - inputs that are unobservable (for example, cash flow modeling inputs based on assumptions)

The following table presents the Company's assets and liabilities that are measured at fair value at September 30, 2018 and December 31, 2017 ($ in thousands):

	Fair value measured at September 30, 2018			
	Total carrying value at September 30, 2018	Quoted prices in active markets (Level 1)	Significant other observable inputs (Level 2)	Significant unobservable inputs (Level 3)
Assets				
Marketable securities - mutual and exchange traded funds	$3,409	$ —	$ 3,409	$ —
Investments at Hoth	$1,700	$ —	$ —	$ 1,700
Investments at TheBit Daily	$25	$ —	$ —	$ 25
Investments at DatChat	$1,000	$ —	$ —	$ 1,000
Liabilities				

Fair value of warrant liabilities	$262	$ —	$ —	$ 262

	Fair value measured at December 31, 2017			
	Total carrying value at December 31, 2017	Quoted prices in active markets (Level 1)	Significant other observable inputs (Level 2)	Significant unobservable inputs (Level 3)
Assets				
Marketable securities - mutual and exchange traded funds	$3,998	$ —	$ 3,998	$ —
Investments at Hoth	$1,020	$ —	$ —	$ 1,020
Liabilities				
Fair value of warrant liabilities	$822	$ —	$ —	$ 822

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There were no transfers between Level 1, 2 or 3 during the nine months ended September 30, 2018.

Level 2 Valuation Techniques

The fair values of Level 2 marketable securities are determined using one or more quoted prices in markets that are not active or for which all significant inputs are observable, either directly or indirectly.

Level 3 Valuation Techniques

Level 3 financial liabilities consist of the warrant liabilities for which there is no current market for these securities such that the determination of fair value requires significant judgment or estimation. Changes in fair value measurements categorized within Level 3 of the fair value hierarchy are analyzed each period based on changes in estimates or assumptions and recorded as appropriate.

A significant decrease in the volatility or a significant decrease in the Company's stock price, in isolation, would result in a significantly lower fair value measurement. Changes in the values of the warrant liabilities are recorded in "change in fair value of warrant liabilities" in the Company's consolidated statements of operations.

The Series A and Series B warrants have been recorded at their fair value using the Black-Scholes valuation model, and will be recorded at their respective fair value at each subsequent balance sheet date. This model incorporates transaction details such as the Company's stock price, contractual terms, maturity, risk free rates, as well as volatility. The warrants require, at the option of the holder, a net-cash settlement following certain fundamental transactions at the Company or require the issuance of registered shares upon exercise, do not expressly preclude an implied right to cash settlement and are therefore accounted for as derivative liabilities.

A summary of quantitative information with respect to the valuation methodology and significant unobservable inputs used for the Company's warrant liabilities that are categorized within Level 3 of the fair value hierarchy at the date of issuance and as of September 30, 2018 and December 31, 2017 is as follows:

Date of valuation	September 30, 2018	December 31, 2017
Risk-free interest rate	2.81%	1.98%

Expected volatility	69.41% - 106.63%	100.00% - 132.21%
Expected life (in years)	2.19-2.31	2.94 - 3.06
Expected dividend yield	—	—

The risk-free interest rate was based on rates established by the Federal Reserve. For the July 2015 Warrants, the expected volatility in the Black-Scholes model is based on an expected volatility of 100% for both periods which represents the percentage required to be used when valuing the cash settlement feature as contractually stated in the form of warrant. The general expected volatility is based on standard deviation of the Company's underlying stock price's daily logarithmic returns. The expected life of the warrants was determined by the expiration date of the warrants. The expected dividend yield was based upon the fact that the Company has not historically paid dividends on its common stock and does not expect to pay dividends on its common stock in the future.

The following table sets forth a summary of the changes in the fair value of the Company's Level 3 financial liabilities for the nine months ended September 30, 2018 and 2017 that are measured at fair value on a recurring basis ($ in thousands):

	Fair Value of Level 3 financial liabilities	
	September 30, 2018	September 30, 2017
Beginning balance	$822	$ 702
Fair value adjustment of warrant liabilities	(560)	259
Ending balance	$262	$ 961

The Company owns approximately 34% of common shares in Hoth as of September 30, 2018. The value of the Company's investment in Hoth increased by approximately $0.7 million during the nine months ended September 30, 2018.

The following table sets forth a summary of the changes in the fair value of the Company’s Level 3 financial assets for the nine months ended September 30, 2018 and 2017 that are measured at fair value on a recurring basis:

	Fair Value of Level 3 investment	
	September 30, 2018	September 30, 2017
Beginning balance	$1,020	$ —
Purchase of investment in TheBit Daily LLC at fair value	25	—
Purchase of investment in DatChat at fair value	1,000	
Fair value of Hoth upon issuance	—	675
Change in fair value of Hoth	680	345
Ending balance	$2,725	$ 1,020

While the Company believes its valuation methods are appropriate and consistent with other market participants, the use of different methodologies or assumptions to determine the fair value of certain financial instruments could result in a different estimate of fair value at the reporting date.

The decision to elect the fair value option, which is irrevocable once elected, is determined on an instrument by instrument basis and applied to an entire instrument.

A summary of quantitative information with respect to the valuation methodology and significant unobservable inputs used for the Company’s valuation in Hoth that are categorized within Level 3 of the fair value hierarchy at the date of issuance and as of September 30, 2018 and December 31, 2017 is as follows:

Date of valuation	September 30, 2018	December 31, 2017
Risk-free interest rate	2.24 %	1.39 %
Expected volatility	75.00 %	75.00 %
Expected life (in years)	1.00	1.00

The investment in Hoth Therapeutics was valued using a hybrid probability weighted expected return method, with scenarios including (1) Hoth continuing to operate as a private company through an estimated potential exit date, and (2) Hoth undergoing an IPO in the near future. The private-company scenario utilizes a reverse option pricing method (backsolve) based on the recent Series A transaction. Key inputs to the backsolve, in addition to the Series A price, include volatility (75.00%) and expected maturity (1.0 years). The IPO scenario is based on initial value indications proposed by investment bankers. The primary inputs, in addition to the pre-money value indications, include the estimated time to IPO (end of November) and a discount rate of 15%. The valuation conclusion is sensitive to the probability weightings assigned to each scenario. The weightings (1/3 IPO scenario, 2/3 private company scenario), were determined according to management expectations regarding exit opportunities, based on what was known or knowable as of September 30, 2018.

The costs of its investment in the BitDaily and DatChat approximate fair value as there have been no significant changes to its investment since the date of purchase.

Intangible Assets Measured at Fair Value on a Non-Recurring Basis using Level 3 Inputs

The following tables presents the Company’s hierarchy for nonfinancial assets measured at fair value on a non-recurring basis (in thousands):

	Net carrying value at December 31, 2017	Impairment Charges - Nine months ended September 30, 2018
Assets		
Patent Portfolios, net	$ 1,500	$ 1,051

	Net carrying value at December 31, 2017	Impairment Charges - Nine months ended September 30, 2017
Assets		
Patent Portfolios, net	$ 3,578	$ —

The Company’s intangible assets are measured at fair value on a non-recurring basis using Level 3 inputs. See Note 7 for valuation techniques for patents.

Note 9. Stockholders’ Equity and Redeemable Convertible Preferred Stock

Common Stock

On March 19, 2018, the Company closed a public offering of common stock for gross proceeds of approximately $3.0 million. The offering was a shelf takedown off of the Company's registration statement on Form S-3 (File No. 333-222488) and was conducted pursuant to a placement agency agreement (the "Agreement") between the Company and Laidlaw & Company (UK) Ltd., the sole placement agent, on a best-efforts basis with respect to the offering (the "Placement Agent"), that was entered into on March 14, 2018. The Company sold 2,222,222 shares of its common stock in the offering at a purchase price of $1.35 per share.

Warrants

A summary of warrant activity for the nine months ended September 30, 2018 is presented below:

	Warrants	Weighted Average Exercise Price	Total Intrinsic Value	Weighted Average **Remaining Contractual Life (in years)**
Outstanding as of December 31, 2017	1,249,754	$8.98	$—	2.92
Outstanding as of September 30, 2018	1,249,754	$8.98		2.17
Exercisable as of September 30, 2018	1,249,754	$8.98	$—	2.17

Stock Options

On February 16, 2018, pursuant to and subject to the available number of shares reserved under the 2014 Plan, the Company issued an aggregate of 150,000 options to purchase common stock of the Company to three of its directors. The aggregate grant date fair value of these options was approximately $0.2 million. These stock options vested over six months.

On May 3, 2018, a new director was granted options to purchase 50,000 shares of the Company’s common stock, at an exercise price of $1.04 per share, which options vested 50% at May 3, 2018 with the remaining 50% vesting at May 3, 2019. The aggregate grant date fair value of these options was approximately $46,000. These stock options vest over twelve months.

A summary of option activity under the Company’s employee stock option plan for the nine months ended September 30, 2018 is presented below:

	Number of Shares	Weighted Average Exercise Price	Total Intrinsic Value	Weighted Average Remaining Contractual Life (in years)
Outstanding as of December 31, 2017	325,597	$ 78.20	$ 5,999	3.2
Employee options granted	200,000	1.39	—	9.4
Outstanding as of September 30, 2018	525,597	$ 48.97	$ —	5.1
Options vested and expected to vest	525,597	$ 48.97	$ —	5.1
Options vested and exercisable	500,597	$ 51.36	$ —	4.9

A summary of option activity under the Company’s non-employee stock option plan for the nine months ended September 30, 2018 is presented below:

	Number of Shares	Weighted Average Exercise Price	Total Intrinsic Value	Weighted Average Remaining Contractual Life (in years)
Outstanding as of December 31, 2017	2,893	$ 98.07	$ —	3.4
Outstanding as of September 30, 2018	2,893	$ 98.07	$ —	2.7
Options vested and expected to vest	2,893	$ 98.07	$ —	2.7
Options vested and exercisable	2,893	$ 98.07	$ —	2.7

Stock-based compensation associated with the amortization of stock option expense was approximately $28,000 and $2,000 for the three months ended September 30, 2018 and 2017, and was approximately $208,000 and $13,000 for the nine months ended September 30, 2018 and 2017, respectively.

Restricted Stock Awards

On February 16, 2018, the Company granted three of its directors 20,000 shares of restricted common stock each. The grant date fair value of each restricted stock award was approximately $27,000. These restricted stock awards vested immediately.

On April 26, 2018, the Company issued 25,410 shares of its common stock to an employee for services pursuant to an employment agreement. The grant date fair value of this restricted stock award was approximately $27,000 (based upon the closing price of the Company’s common stock on April 26, 2018). This restricted stock award vested immediately.

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Stock-based Compensation

Stock-based compensation for the nine months ended September 30, 2018 and 2017 was comprised of the following ($ in thousands):

	For the Three Months Ended September 30,		For the Nine Months Ended September 30,	
	2018	2017	2018	2017
Employee restricted stock awards	$ —	$ —	$ 106	$ —
Employee stock option awards	28	2	208	13
Total compensation expense	$ 28	$ 2	$ 314	$ 13

Unamortized stock-based compensation expense was approximately $14,000 at September 30, 2018.

Note 10. Commitments and Contingencies

Legal Proceedings - Potential Gain Contingencies

In the ordinary course of business, the Company actively pursues legal remedies to enforce its intellectual property rights and to stop unauthorized use of patented technology. From time to time, the Company may be involved in various claims and counterclaims and legal actions arising in the ordinary course of business. There were no pending material claims or legal matters as of the date of this report other than the following matters:

International License Exchange of America, LLC Litigations

Under our Monetization Agreement with Equitable, ILEA filed the patent infringement litigation below.

On May 15, 2017, litigation against ADTRAN, Inc. case number 1:17-cv-00562-RGA, in the U.S. District Court for the District of Delaware, related to alleged infringement of the ‘999 patent and U.S. Patent Nos. 5,959,990; 6.970,461; 7,478,167; 7,274,704; and 7,277,533. On January 22, 2018, ILEA filed a notice of voluntary dismissal and the court terminated the case.

Optic153 LLC Litigations

Under our Monetization Agreement with Equitable, Optic153 LLC, an Equitable subsidiary, has filed the following litigations relating to patents acquired under the terms of settlement of one of our prior litigations:

On March 15, 2018, litigation against Lumentum Operations LLC, Case No. 1:18-cv-00406-VAC-CJB, in the in the U.S. District Court for the District of Delaware, related to alleged infringement of U.S. Patent No. 6,587,261. Lumentum’s Answer is currently due on November 6, 2018.

Counterclaims

In the ordinary course of business, we, or with our wholly-owned subsidiaries or monetization partners, will initiate litigation against parties whom we believe have infringed on our intellectual property rights and technologies. The initiation of such litigation exposes us to potential counterclaims initiated by the defendants. Currently, there are no counterclaims pending against us. In the event such counterclaims are filed, we can provide no assurance that the outcome of these claims will not have a material adverse effect on our financial position and results from operations.

Note 11. Recent Events

CBM Merger

On October 10, 2018, the Company entered into an Agreement and Plan of Merger (the "**Merger Agreement**"), by and among the Company, Spherix Delaware Merger Sub Inc., a Delaware corporation and a wholly-owned subsidiary of Spherix ("**Merger Sub**"), CBM, and Scott Wilfong in the capacity as the representative from and after the effective time of the Merger (as defined below) (the "**Effective Time**") for the stockholders of CBM as of immediately prior to the Effective Time (the "**Stockholder Representative**").

Pursuant to the Merger Agreement and subject to the terms and conditions set forth therein, at the closing of the transactions contemplated by the Merger Agreement, Merger Sub will merge with and into CBM (the "Merger"), with CBM continuing as the surviving corporation in the Merger. Subject to the terms and conditions set forth in the Merger Agreement, at the Effective Time: (i) all shares of capital stock of CBM (the "CBM Stock") issued and outstanding immediately prior to the Effective Time will be converted into the right to receive the Stockholder Merger Consideration (as defined below).

As consideration for the Merger, the Company shall deliver to the stockholders of CBM an aggregate of 15,000,000 shares of Company common stock (the "Stockholder Merger Consideration"), with each share of Company common stock valued at $1.10 per share. At or prior to the Closing, the Company, the Stockholder Representative, and a mutually agreeable escrow agent (the "Escrow Agent"), shall enter into an Escrow Agreement, effective as of the Effective Time, in form and substance reasonably satisfactory to the parties (the "Escrow Agreement"), pursuant to which the Company shall deposit with the Escrow Agent 1,500,000 shares from the Stockholder Merger Consideration otherwise deliverable to the stockholders of CBM who own beneficially and of record greater than 10% of the CBM common stock issued and outstanding immediately prior to the Closing (each a "Significant Company Stockholder") (including any equity securities paid as dividends or distributions with respect to such shares or into which such shares are exchanged or converted, the "Escrow Shares"), to be held in a segregated escrow account (the "Escrow Account") and disbursed by the Escrow Agent. Each stockholder of CBM Stockholder at the Effective Time (each, a "CBM Stockholder") shall receive its pro rata share of the Stockholder Merger Consideration (less, in the case of each of the Significant Company Stockholders, its pro rata portion of the Escrow Shares held in the Escrow Account) based on the number of shares of CBM Stock owned by such CBM Stockholder as compared to the total number of shares of CBM Stock owned by all CBM Stockholders as of immediately prior to the Effective Time. The Escrow Shares shall serve as a security for, and a source of payment of, the indemnity rights of the Company indemnified parties.

In the event that this Agreement is terminated by the Company pursuant to certain sections of the Agreement, then the Company may be required to deliver to CBM certificate(s) representing an aggregate of 400,000 shares of the

Company’s Common Stock within two (2) business days of termination.

Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations

Forward-Looking Statements

You should read this discussion together with the Financial Statements, related Notes and other financial information included elsewhere in this Form 10-Q. The following discussion contains assumptions, estimates and other forward-looking statements that involve a number of risks and uncertainties. These risks could cause our actual results to differ materially from those anticipated in these forward-looking statements. All references to “we,” “us,” “our” and the “Company” refer to Spherix Incorporated, a Delaware corporation and its consolidated subsidiaries unless the context requires otherwise.

Overview

We are an intellectual property company that owns patented and unpatented intellectual property. Spherix Incorporated was formed in 1967 as a scientific research company and for much of our history pursued drug development including through Phase III clinical studies which were largely discontinued in 2012. In 2012 and 2013, we shifted our focus to being a firm that owns, develops, acquires and monetizes intellectual property assets. Through our acquisitions of 108 patents and patent applications from Rockstar Consortium US, LP and acquisition of several hundred patents issued to Harris Corporation as a result of our acquisition of North South, we have expanded our activities in wireless communications and telecommunication sectors including antenna technology, Wi-Fi, base station functionality and cellular.

Our activities generally include the acquisition and development of patents through internal or external research and development. In addition, we seek to acquire existing rights to intellectual property through the acquisition of already issued patents and pending patent applications, both in the United States and abroad. We may alone, or in conjunction with others, develop products and processes associated with our intellectual property and license our intellectual property to others seeking to develop products or processes or whose products or processes infringe our intellectual property rights through legal processes. Using our patented technologies, we employ strategies seeking to permit us to derive value from licensing, commercialization, settlement and litigation from our patents. We will continue to seek to obtain patents from inventors and patent owners to monetize patent portfolios.

In addition to our patent monetization efforts, since the fourth quarter of 2017, we have been transitioning to focus our efforts as a technology development company. The Company made no investments in new IP during 2017 and started the transition with its investment in Hoth Therapeutics, Inc. during the third quarter of 2017.

In March 2018, the Company entered into an agreement and plan of merger, subject to shareholder approval, with DatChat, Inc. (the "DatChat Merger"), a secure messaging application that utilizes blockchain technology, as amended on May 3, 2018. After further negotiations, the Company determined not to pursue a merger with DatChat and on August 8, 2018, entered into a securities purchase agreement (the "Securities Purchase Agreement") with DatChat pursuant to which the Company and DatChat agreed to terminate the DatChat Merger and each of the parties to the Merger Agreement agreed to release and discharge and hold harmless each of the other parties with respect to the transaction contemplated by the Merger Agreement.

In addition to the termination, under the Securities Purchase Agreement, the Company agreed to make a $1,000,000 strategic investment in DatChat which consisted of (a) a cash payment of $500,000, (b) the forgiveness of prior advances made to DatChat by the Company, and (c) an obligation of the Company to pay certain specific future compensation expenses of DatChat (amounts in clauses (b) and (c) not to exceed a maximum of $500,000 in the aggregate); in exchange for $1,000,000 of restricted shares of DatChat common stock which is equal to 4.37% of the issued and outstanding common stock of DatChat.

DatChat agreed to certain covenants, including the covenant in the event that DatChat completes (i) a public offering of its securities pursuant to an effective registration statement or (ii) a merger, consolidation, transfer or share exchange transaction pursuant to which DatChat becomes subject to the reporting requirements of the Securities Exchange Act of 1934, (each, a "Going Public Event"), and until the time that the Company holds no shares of DatChat, DatChat agreed to certain covenants, including the covenant to timely file (or obtain extensions in respect thereof and file within the applicable grace period) all reports required to be filed by DatChat pursuant to the Exchange Act of 1934, as amended the "Exchange Act"), provided that, if after becoming subject to the Exchange Act, DatChat is thereafter no longer required to file reports pursuant to the Exchange Act, DatChat will, for as long as the Company owns shares of DatChat, prepare and furnish to the Company and make publicly available in accordance with Rule 144(c) such information as is required for the Company to sell such shares, including without limitation, under Rule 144. Under the Securities Purchase Agreement, DatChat further covenants that it will take such further action as the Company may reasonably request, to the extent required from time to time to enable the Company to sell its DatChat shares without registration under the Securities Act of 1933, as amended, including, without limitation, within the requirements of the exemption provided by Rule 144.

DatChat also agreed that, from and after a Going Public Event, and subject to certain exceptions, neither DatChat nor any other person acting on its behalf will provide the Company with any information that constitutes, or that DatChat reasonably believes constitutes, material non-public information, unless prior thereto, the Company shall have consented to the receipt of such information and agreed with DatChat to keep such information confidential.

In October 2018, the Company entered into an agreement and plan of merger, subject to shareholder approval, with CBM BioPharma, Inc. ("CBM"), a pharmaceutical company focusing on the development of cancer treatments, pursuant to which all shares of capital stock of CBM will be converted into the right to receive an aggregate of 15,000,000 shares of the Company's common stock with CBM continuing as the surviving corporation in the merger.

Results of Operations

Three months ended September 30, 2018 compared to three months ended September 30, 2017

During the three months ended September 30, 2018 and 2017, revenue was approximately $0 and $0.3 million, respectively. $0.3 million in 2017 represented the amortization of deferred revenue related to the two patent license agreements we entered into with RPX Corporation ("RPX") on November 23, 2015 and May 22, 2016 (the "RPX License Agreements"). The Company has determined that its licenses represent functional intellectual property under Topic 606. Therefore, revenue is recognized at the point in time when the customer has the right to use the intellectual property rather than over the license period. Accordingly, the Company's deferred revenue related to its licenses was eliminated through a debit adjustment in the amount of approximately $3.2 million through the accumulated deficit at the beginning of 2018. The Company will not recognize revenue from the RPX license in the future.

During the three months ended September 30, 2018 and 2017, we incurred a loss from operations of approximately $2.0 million and $1.0 million, respectively. The increase in the net loss from operations was primarily attributed to $1.1 million increase in impairment of intangible assets, $19,000 increase in acquisition costs related to the DatChat Merger and $21,000 increase in depreciation expense, and was partially offset by $0.3 million decrease in compensation expense, $70,000 decrease in professional fees and $55,000 decrease in in other selling, general and administrative expenses.

During the three months ended September 30, 2018, other income was approximately $60,000 as compared to other income of approximately $1.4 million for the comparable prior period. The decrease in other income in 2018 was primarily attributed to $0.3 million decrease in fair value of our investment in Hoth, and $1.0 million decrease in change in fair value of warrant liabilities.

Due to the above, net loss was $1.9 million in the three months ended September 30, 2018 compared to net income of $0.5 million in the three months ended September 30, 2017.

Nine months ended September 30, 2018 compared to nine months ended September 30, 2017

During the nine months ended September 30, 2018 and 2017, revenue was approximately $0 and $1.0 million, respectively. $1.0 million represents the amortization of deferred revenue related to the two patent license agreements we entered into with RPX Corporation ("RPX") on November 23, 2015 and May 22, 2016 (the "RPX License Agreements"). The Company has determined that its licenses represent functional intellectual property under Topic 606. Therefore, revenue is recognized at the point in time when the customer has the right to use the intellectual property rather than over the license period. Accordingly, the Company's deferred revenue related to its licenses was eliminated through a debit in the amount of approximately $3.2 million through the accumulated deficit at the beginning of 2018. The Company will not recognize revenue from the RPX license in the future.

During the nine months ended September 30, 2018 and 2017, we incurred a loss from operations of approximately $4.8 million and $2.7 million, respectively. The increase in net loss was primarily attributed to $1.1 increase in impairment of intangible assets, $1.0 million decrease in revenue, $0.4 million increase in professional fees and $0.2 million increase in acquisition costs related to the DatChat Merger, and was partially offset by $0.5 million decrease in compensation and related expenses.

During the nine months ended September 30, 2018, total other income was approximately $1.0 million as compared to other income of approximately $0.4 million for the comparable prior period. The increase in other income was primarily attributed to $0.3 million increase in fair value of our investment in Hoth and $0.8 million increase in change in fair value of warrant liabilities, and was partially offset by $0.5 million decrease in other income.

Due to the above, the net loss was $3.8 million in the nine months ended September 30, 2018 compared to net loss of $2.3 million in the nine months ended September 30, 2017.

Liquidity and Capital Resources

We continue to incur ongoing administrative and other expenses, including public company expenses, in excess of corresponding revenue.

We intend to finance our activities through:

- managing current cash and cash equivalents on hand from our past equity offerings,
- seeking additional funds raised through the sale of additional securities in the future,
- seeking additional liquidity through credit facilities or other debt arrangements, and
- increasing revenue from the monetization of its patent portfolios, license fees and new business ventures.

Cash Flows from Operating Activities - For the nine months ended September 30, 2018 and 2017, net cash used in operations was approximately $2.3 million and $2.5 million, respectively. The cash used in operating activities for the nine months ended September 30, 2018 primarily resulted from a net loss of $3.8 million, $0.7 million change in fair value of our investment in Hoth and $0.6 million change in fair value of warrant liabilities, and partially offset by impairment of goodwill and intangible assets of $1.1 million and amortization of patent portfolio expenses of $1.0 million. The cash used in operating activities for the nine months ended September 30, 2017 primarily resulted from $0.3 million change in fair value of warrant liabilities and $1.2 million of changes in assets and liabilities, and partially offset by amortization of patent portfolio expenses of $1.0 million.

Cash Flows from Investing Activities - For the nine months ended September 30, 2018 and 2017, net cash used in investing activities was approximately $0.5 million and net cash provided by investing activities was approximately $0.6 million, respectively. The cash used in investing activities primarily resulted from our purchase of marketable securities for the nine months ended September 30, 2018 of $13.3 million, purchase of investment at fair value of $0.7 million, and was partially offset by our sale of marketable securities of $13.5 million. The cash provided by investing activities primarily resulted from our sale of marketable securities for the nine months ended September 30, 2017 of $12.5 million, partially offset by our purchase of marketable securities of $11.3 million.

Cash Flows from Financing Activities - Cash provided by financing activities for the nine months ended September 30, 2018 was approximately $2.7 million, which related to issuance of 2,222,222 shares of its common stock. Cash provided by financing activities for the nine months ended September 30, 2017 was approximately $2.1 million, which related to issuance of shares of common stock in an equity raise.

The Company's ultimate success is dependent on its ability to obtain additional financing and generate sufficient cash flow to meet its obligations on a timely basis. The Company's business will require significant amounts of capital to sustain operations and make the investments it needs to execute its longer-term business plan. The Company's working capital amounted to approximately $2.3 million at September 30, 2018. Absent generation of sufficient revenue from the execution of the Company's long-term business plan, the Company will need to obtain additional debt or equity financing, especially if the Company experiences downturns in its business that are more severe or longer than anticipated, or if the Company experiences significant increases in expense levels resulting from being a publicly-traded company or operations. If the Company attempts to obtain additional debt or equity financing, the Company cannot assume that such financing will be available to the Company on favorable terms, or at all.

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We have filed a shelf registration statement on Form S-3 with the SEC. The registration statement, which has been declared effective, was filed in reliance on Instruction I.B.6 of Form S-3, which imposes a limitation on the maximum amount of securities that we may sell pursuant to the registration statement during any twelve-month period. At the time we sell securities pursuant to the registration statement, the amount of securities to be sold plus the amount of any securities we have sold during the prior twelve months in reliance on Instruction I.B.6 may not exceed one-third of the aggregate market value of our outstanding common stock held by non-affiliates as of a day during the 60 days immediately preceding such sale as computed in accordance with Instruction I.B.6. Whether we sell securities under the registration statement will depend on a number of factors, including the market conditions at that time, our cash position at that time and the availability and terms of alternative sources of capital.

On March 19, 2018, we closed on a public offering of common stock for gross proceeds of approximately $3.0 million and net proceeds of approximately $2.7 million. The offering was a shelf takedown off of our registration statement on Form S-3 (File No. 333-222488) and was conducted pursuant to a placement agency agreement between us and Laidlaw & Company (UK) Ltd., the sole placement agent, on a best-efforts basis with respect to the offering (“Laidlaw”), that was entered into on March 14, 2018. We sold 2,222,222 shares of our common stock in the offering at a purchase price of $1.35 per share.

Disputes regarding the assertion of patents and other intellectual property rights are highly complex and technical. We may be forced to litigate against others to enforce or defend our intellectual property rights or to determine the validity and scope of other parties’ proprietary rights. The defendants or other third parties involved in the lawsuits in which we are involved may allege defenses and/or file counterclaims or initiate inter parties reviews in an effort to avoid or limit liability and damages for patent infringement. If such efforts are successful, they may have an impact on the value of the patents and preclude us from deriving revenue from the patents, the patents could be declared invalid by a court or the United States Patent and Trademark Office, in whole or in part.

Should we be unsuccessful in our efforts to execute our business plan, it could become necessary for us to reduce expenses, curtail operations or explore various alternative business opportunities or possibly suspend or discontinue our business activities.

Rockstar will be entitled to receive a contingent recovery percentage of future profits (“Participation Payments”) from licensing, settlements and judgments against defendants with respect to patents purchased under the First Patent Purchase Agreement; however, no payment is required unless the Company receives a recovery. The Participation Payments under the First Patent Purchase Agreement are equal to zero percent until the Company recovers with respect to patents purchased under the First Patent Purchase Agreement at least (a) $8.0 million or (b) if we recover less than $17.0 million, an amount equal to $5.0 million plus $3.0 million times a fraction equal to total recoveries minus $10.0 million, divided by $7.0 million (clause (a) or (b), as applicable, being the “Initial Return”), in each case net of certain expenses. Once we obtain recoveries in excess of the Initial Return, we are required to make a payment to Rockstar of $13.0 million, payable only from the proceeds of such recovery, within six months after such recovery. In addition, no later than 30 days after the end of each quarter in which we make such a recovery, we are required to pay to Rockstar a percentage of such recovery, net of certain expenses, scaling from 30% if such cumulative recoveries net of certain expenses are less than or equal to $50.0 million, to 70% to the extent cumulative recoveries net of certain expenses are in excess of $1.0 billion.

Rockstar will also be entitled to receive Participation Payments from licensing, settlements and judgments against defendants with respect to patents purchased under the Second Patent Purchase Agreement; however, no payment is required unless we receive a recovery. The Participation Payments under the Second Patent Purchase Agreement are equal to zero percent until we recover with respect to patents purchased under the Second Patent Purchase Agreement at least $120.0 million, net of certain expenses. Once we obtain recoveries in excess of that amount, we are required to pay to Rockstar 50% of our recovery in excess of that amount, no later than 30 days after the end of each quarter in which we make such a recovery.

Our ability to fund these Participation Payments or the $13.0 million contingent payment will depend on the liquidity of our assets, recoveries, alternative demands for cash resources and access to capital at the time. Furthermore, our obligation to fund Participation Payments could adversely impact our liquidity and financial position. As of the date of this report, we have not made any such Participation Payments.

Off-balance sheet arrangements.

None.

Item 3. Quantitative and Qualitative Disclosures about Market Risk

Not required for smaller reporting companies.

Item 4. Controls and Procedures

Disclosure Controls and Procedures

We maintain “disclosure controls and procedures,” as such term is defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), that are designed to ensure that information required to be disclosed by us in reports that we file or submit under the Exchange Act is recorded, processed, summarized, and reported within the time periods specified in Securities and Exchange Commission rules and forms, and that such information is accumulated and communicated to our management, including our Chief Executive Officer, to allow timely decisions regarding required disclosure. In designing and evaluating our disclosure controls and procedures, management recognized that disclosure controls and procedures, no matter how well conceived and operated, can provide only reasonable, not absolute, assurance that the objectives of the disclosure controls and procedures are met. Additionally, in designing disclosure controls and procedures, our management necessarily was required to apply its judgment in evaluating the cost-benefit relationship of possible disclosure controls and procedures.

The design of any disclosure controls and procedures also is based in part upon certain assumptions about the likelihood of future events, and there can be no assurance that any design will succeed in achieving its stated goals under all potential future conditions.

With respect to the quarter ended September 30, 2018, under the supervision and with the participation of our management, we conducted an evaluation of the effectiveness of the design and operations of our disclosure controls and procedures. Based upon this evaluation, our Chief Executive Officer has concluded that our disclosure controls and procedures were not effective as of September 30, 2018 due to the material weaknesses in our internal controls over financial reporting. We have a lack of segregation of duties, and a lack of controls in place to ensure that all material transactions and developments impacting the financial statements are reflected.

C*hanges in Internal Control over Financial Reporting:*

There were no changes in our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) that occurred during the fiscal quarter ended September 30, 2018 which 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, we work with Equitable under our Monetization Agreement to enforce our intellectual property rights and to stop unauthorized use of our technology. Other than ordinary routine litigation incidental to the business and other than as set forth below, we know of no material, active or pending legal proceedings against us, except for those described below.

International License Exchange of America, LLC Litigations

Under our Monetization Agreement with Equitable, ILEA has filed the patent infringement litigations listed below.

On May 15, 2017, litigation against ADTRAN, Inc. case number 1:17-cv-00562-RGA, in the U.S. District Court for the District of Delaware, related to alleged infringement of the '999 patent and U.S. Patent Nos. 5,959,990; 6.970,461; 7,478,167; 7,274,704; and 7,277,533. On January 22, 2018, ILEA filed a notice of voluntary dismissal and the court terminated the case.

Optic153 LLC Litigations

Under our Monetization Agreement with Equitable, Optic 153 LLC, an Equitable subsidiary, has filed the following litigations relating patents acquired under the terms of settlement of one of our prior litigations:

On March 15, 2018, litigation against Lumentum Operations LLC, Case No. 1:18-cv-00406-VAC-CJB, in the in the U.S. District Court for the District of Delaware, related to alleged infringement of U.S. Patent No. 6,587,261. Lumentum's Answer is currently due on November 6, 2018.

Counterclaims

In the ordinary course of business, we, or with our wholly-owned subsidiaries or monetization partners, will initiate litigation against parties whom we believe have infringed on our intellectual property rights and technologies. The initiation of such litigation exposes us to potential counterclaims initiated by the defendants. Currently, there are no counterclaims pending against us. In the event such counterclaims are filed, we can provide no assurance that the outcome of these claims will not have a material adverse effect on our financial position and results from operations.

Item 1A. Risk Factors

Investing in our common stock is subject to a number of risks and uncertainties. You should carefully consider the risk factors described under the heading "Item 1A. Risk Factors" in our Annual Report on Form 10-K for the fiscal year ended December 31, 2017, in other reports we file with the SEC, and below.

We are exploring and evaluating strategic alternatives and there can be no assurance that we will be successful in identifying, or completing any strategic alternative or that any such strategic alternative will yield additional value for shareholders.

Our management and Board of Directors has commenced a review of strategic alternatives which could result in, among other things, a sale, a merger, consolidation or business combination, asset divestiture, partnering or other collaboration agreements, or potential acquisitions or recapitalizations, in one or more transactions, or continuing to operate with our current business plan and strategy. For example, on October 10, 2018, we entered into an agreement and plan of merger with CBM Biopharma, Inc. ("CBM"), pursuant to which all shares of capital stock of CBM will be converted into 15,000,000 shares of the Company's common stock. CBM is a privately pharmaceutical company focused on the development of cancer treatments. There can be no assurance that the exploration of strategic alternatives will result in the identification or consummation of any transaction, and there can be no assurance that the transaction with CBM will close. In addition, we may incur substantial expenses associated with identifying and evaluating potential strategic alternatives. The process of exploring strategic alternatives may be time consuming and disruptive to our business operations and if we are unable to effectively manage the process, our business, financial condition and results of operations could be adversely affected. We also cannot assure you that any potential transaction or other strategic alternative, if identified, evaluated and consummated, will provide greater value to our shareholders than that reflected in the current stock price. Any potential transaction would be dependent upon a number of factors that may be beyond our control, including, among other factors, market conditions, industry trends, the interest of third parties in our business and the availability of financing to potential buyers on reasonable terms.

We may be unsuccessful at integrating future acquisitions.

If we find appropriate opportunities in the future, we may acquire businesses to strategically increase the number of patents in our portfolio and pursue monetization. For example, on June 30, 2017, we acquired a stake in Hoth Therapeutics, Inc. ("Hoth"), a development stage biopharmaceutical company focused on unique targeted therapeutics for patients suffering from indications such as atopic dermatitis, also known as eczema. Hoth has a sublicense from Chelexa Biosciences, Inc. to use Chelexa's BioLexa products for the treatment of eczema and such sublicense includes the right to further sublicense to third parties to make, use, have made, import, offer for sale and sell BioLexa products. There can be no guarantee that Hoth will be successful in its efforts to monetize its sublicense agreement with Chelexa. In addition, on March 12, 2018, we entered into an agreement and plan of merger with DatChat, Inc.

(“DatChat”), pursuant to which we were going to acquire 100% ownership of DatChat, which is a privately held personal privacy platform focused on encrypted communication, internet security and digital rights management, which we subsequently terminated on August 8, 2018. Most recently, on October 10, 2018, we entered into an agreement and plan of merger with CBM, pursuant to which CBM will be the surviving corporation in the merger. There can be no guarantee that we will be successful in closing the transaction contemplated by the agreement with CBM or that we will be successful in managing the operations of CBM, which is in the early stages of development of cancer treatments.

As we acquire businesses or substantial stakes in certain businesses, the process of integration may produce unforeseen operating difficulties and expenditures, fail to result in expected synergies or other benefits and absorb significant attention of our management that would otherwise be available for the ongoing development of our business. In addition, in the event of any future acquisitions, we may record a portion of the assets we acquire as goodwill, other indefinite-lived intangible assets or finite-lived intangible assets. We do not amortize goodwill and indefinite-lived intangible assets, but rather review them for impairment on an annual basis or whenever events or changes in circumstances indicate that their carrying value may not be recoverable. The recoverability of goodwill and indefinite-lived intangible assets is dependent on our ability to generate sufficient future earnings and cash flows. Changes in estimates, circumstances or conditions, resulting from both internal and external factors, could have a significant impact on our fair valuation determination, which could then have a material adverse effect on our business, financial condition and results of operations. We cannot guarantee that we will be able to identify suitable acquisition opportunities, consummate any pending or future acquisitions or that we will realize any anticipated benefits from any such acquisitions.

If the CBM merger is completed, the Company may not be able to successfully integrate the business of CBM and realize the anticipated benefits of the merger.

Realization of the anticipated benefits in the merger with CBM will depend on our ability to successfully integrate our businesses and operations with CBM. We will be required to devote significant management attention and resources to integrating its business practices, operations, and support functions. The process of integrating CBM’s operations could cause an interruption of, or loss of momentum in, our business and financial performance, and in CBM’s business and financial performance as well. The diversion of management’s attention and any delays or difficulties encountered in connection with the merger and the integration of the two companies’ operations could have an adverse effect on the business, financial results.

Our stockholders will have a reduced ownership and voting interest after the merger and will exercise less influence over our management and policies than they did prior to the Merger.

Our stockholders currently have the right to vote in the election of our board of directors on other matters affecting us. When, and if the merger occurs, because of the issuance of shares of common stock to the CBM shareholders, our current stockholders will hold a percentage ownership of the post-merger company that is much smaller than the stockholder’s current percentage ownership of ours. Because of this, our current stockholders will have less influence over the management and policies of the Company than they now have after the consummation of the merger.

The merger with CBM is subject to certain conditions to closing that could result in the merger not being completed or being delayed, either of which could negatively impact its stock price and future business and results of operations. **In the event that this Agreement is terminated by the Company pursuant to certain sections of the Agreement, then the Company may be required to deliver to CBM certificate(s) representing an aggregate of 400,000 shares of the Company’s Common Stock within two (2) business days of termination.**

Completion of the merger is subject to a number of customary conditions, including, but not limited to, the approval of the merger Agreement by our stockholders. In addition, if any governmental authority shall have enacted, issued, promulgated or enforced any law or order which has the effect of making the transactions or agreements contemplated by the Merger Agreement illegal or which otherwise prevents or prohibits consummation of the transactions contemplated by the Merger Agreement, CBM may elect not to consummate the Merger. There is no assurance that we will satisfy the conditions necessary for completion of the merger. If any of the conditions to the merger are not satisfied or, where waiver is permissible, waived, the merger will not be consummated. Failure to complete the merger would prevent us from realizing the anticipated benefits of the merger. We have already and expect to continue to incur significant costs associated with transaction fees, professional services, taxes and other costs related to the merger. In the event that the merger is not completed, we will remain liable for these costs and expenses. In addition, the current market price of our common stock may reflect a market assumption that the merger will occur, and a failure to complete the merger could result in a negative perception by the market of ours generally and a resulting decline in the market price of the our common stock. The market price may also decline if the market disapproves of the Merger.Any delay in the consummation of the merger or any uncertainty about the consummation of the merger could also negatively impact our stock price and future business and results of operations. The merger may not be consummated, there may be a delay in the consummation of the merger or the merger may not be consummated on the terms contemplated by the Merger Agreement.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

None.

Item 6. Exhibits

2.1	Agreement and Plan of Merger, dated as of October 10, 2018, by and among Spherix Incorporated, Spherix Delaware Merger Sub Inc., CBM Biopharma, Inc. and Scott Wilfong (incorporated by reference to Exhibit 2.1 to the Current Report on Form 8-K filed on October 16, 2018)
10.1	Securities Purchase Agreement, dated as of August 8, 2018, by and between Spherix Incorporated and DatChat, Inc. (incorporated by reference to Exhibit 10.1 to the Quarterly Report on Form 10-Q filed on August 14, 2018)
31.1	Certification of Principal Executive Officer and Principal Financial Officer of Spherix Incorporated pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1	Certification of Principal Executive Officer and Principal Financial Officer of Spherix Incorporated pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
101.INS	XBRL Instance Document.
101.SCH	XBRL Taxonomy Extension Schema Document
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document
101.LAB	XBRL Taxonomy Extension Label Linkbase Document

Signatures

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

Spherix Incorporated

(Registrant)

Date: November 14, 2018	By: /s/ Anthony Hayes
	Anthony Hayes
	Chief Executive Officer
	(Principal Executive Officer, Principal Financial Officer and Principal Accounting Officer)

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