UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-Q

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

For the quarterly period ended June 30, 2024

or

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

For the transition period from_____ to _____.

Commission file number 001-41379

DRAFTKINGS INC.

(Exact name of registrant as specified in its charter)

Nevada	**87-2764212**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

222 Berkeley Street, 5th Floor
Boston, MA 02116
(Address of principal executive offices) (Zip Code)

(617) 986-6744
(Registrant's telephone number, including area code)

Not Applicable
(Former name, former address and former fiscal year, if changed since last report).

Securities Registered Pursuant to Section 12(b) of the Act:

Title of each class	**Trading symbol**	**Name of each exchange on which registered**
Class A Common Stock, $0.0001 par value	**DKNG**	**The Nasdaq Stock Market LLC**

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

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

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

Large accelerated filer	☒	Accelerated filer	☐
Non-accelerated filer	☐	Smaller reporting company	☐
Emerging growth company	☐		

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

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

As of July 31, 2024 there were 485,530,405 shares of the registrant's Class A common stock, par value $0.0001 per share, and 393,013,951 shares of the registrant's Class B common stock, par value $0.0001 per share, outstanding.

DraftKings Inc.
Quarterly Report on Form 10-Q
For the Quarter Ended June 30, 2024

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PART I. - FINANCIAL INFORMATION

Item 1. Financial Statements.

DRAFTKINGS INC.

CONDENSED CONSOLIDATED BALANCE SHEETS
(Amounts in thousands, except par value)

	June 30, 2024 (Unaudited)	December 31, 2023
Assets		
Current assets:		
Cash and cash equivalents	$ 815,880	$ 1,270,503
Restricted cash	12,844	11,700
Cash reserved for users	244,760	341,290
Receivables reserved for users	237,331	301,770
Accounts receivable	65,011	47,539
Prepaid expenses and other current assets	147,007	98,565
Total current assets	**1,522,833**	**2,071,367**
Property and equipment, net	57,425	60,695
Intangible assets, net	949,381	690,620
Goodwill	1,456,009	886,373
Operating lease right-of-use assets	89,516	93,985
Equity method investments	11,141	10,280
Deposits and other non-current assets	131,877	131,546
Total assets	**$ 4,218,182**	**$ 3,944,866**
Liabilities and Stockholders' equity		
Current liabilities:		
Accounts payable and accrued expenses	$ 573,512	$ 639,599
Liabilities to users	720,668	851,898
Operating lease liabilities, current portion	11,482	11,499
Other current liabilities	68,078	46,624
Total current liabilities	**1,373,740**	**1,549,620**
Convertible notes, net of issuance costs	1,255,086	1,253,760
Non-current operating lease liabilities	78,162	80,827
Warrant liabilities	25,477	63,568
Long-term income tax liabilities	71,639	72,810
Other long-term liabilities	115,649	83,975
Total liabilities	**$ 2,919,753**	**$ 3,104,560**
Commitments and contingent liabilities (Note 5 and 12)		
Stockholders' equity:		
Class A common stock, $0.0001 par value; 900,000 shares authorized as of June 30, 2024 and December 31, 2023; 498,740 and 484,598 shares issued and 485,426 and 472,697 outstanding as of June 30, 2024 and December 31, 2023, respectively	$ 47	$ 46
Class B common stock, $0.0001 par value; 900,000 shares authorized as of June 30, 2024 and December 31, 2023; 393,014 shares issued and outstanding as of June 30, 2024 and December 31, 2023	39	39
Treasury stock, at cost; 13,314 and 11,901 shares as of June 30, 2024 and December 31, 2023, respectively	(470,094)	(412,182)
Additional paid-in capital	7,744,638	7,149,858
Accumulated deficit	(6,012,689)	(5,933,943)
Accumulated other comprehensive income	36,488	36,488
Total stockholders' equity	**$ 1,298,429**	**$ 840,306**
Total liabilities and stockholders' equity	**$ 4,218,182**	**$ 3,944,866**

See accompanying notes to unaudited condensed consolidated financial statements.

DRAFTKINGS INC.

CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(Unaudited)
(Amounts in thousands, except per share data)

	Three months ended June 30,		Six months ended June 30,	
	2024	**2023**	**2024**	**2023**
Revenue	**$ 1,104,441**	**$ 874,927**	**$ 2,279,437**	**$ 1,644,579**
Cost of revenue	663,414	510,323	1,373,483	1,032,063
Sales and marketing	215,676	207,487	556,375	596,620
Product and technology	92,655	89,906	181,470	177,994
General and administrative	165,084	136,256	339,335	296,732
Loss from operations	**(32,388)**	**(69,045)**	**(171,226)**	**(458,830)**
Other income (expense):				
Interest income	14,212	13,411	29,279	25,206
Interest expense	(678)	(666)	(1,327)	(1,321)
Gain (loss) on remeasurement of warrant liabilities	9,791	(20,041)	(8,303)	(37,076)
Other (loss) gain, net	(446)	45	(1,181)	64
Loss before income tax (benefit) provision and loss (income) from equity method investment	**(9,509)**	**(76,296)**	**(152,758)**	**(471,957)**
Income tax (benefit) provision	(73,570)	651	(73,921)	2,019
Loss (income) from equity method investment	239	323	(91)	442
Net income (loss) attributable to common stockholders	**$ 63,822**	**$ (77,270)**	**$ (78,746)**	**$ (474,418)**
Earnings (loss) per share attributable to common stockholders:				
Basic	$ 0.13	$ (0.17)	$ (0.17)	$ (1.03)
Diluted	$ 0.10	$ (0.17)	$ (0.17)	$ (1.03)

See accompanying notes to unaudited condensed consolidated financial statements.

DRAFTKINGS INC.

CONDENSED CONSOLIDATED STATEMENTS OF CHANGES IN EQUITY
(Unaudited)
(Amounts in thousands)

	Class A Common Stock		Class B Common Stock		Additional Paid in Capital	Accumulated Deficit	Accumulated Other Comprehensive Income	Treasury Stock Amount	Total Stockholders' Equity
	Shares	Amount	Shares	Amount					
Balances at December 31, 2023	**472,697**	**$ 46**	**393,014**	**$ 39**	**$ 7,149,858**	**$ (5,933,943)**	**$ 36,488**	**$ (412,182)**	**$ 840,306**
Exercise of stock options	630	—	—	—	2,857	—	—	—	2,857
Stock-based compensation expense	—	—	—	—	117,702	—	—	—	117,702
Exercise of warrants	1,002	—	—	—	46,181	—	—	—	46,181
Purchase of treasury stock	(782)	—	—	—	—	—	—	(33,499)	(33,499)
Restricted stock unit vesting	2,520	—	—	—	—	—	—	—	—
Net income (loss)		—	—	—	—	(142,568)	—	—	(142,568)
Balances at March 31, 2024	**476,067**	**$ 46**	**393,014**	**$ 39**	**$ 7,316,598**	**$ (6,076,511)**	**$ 36,488**	**$ (445,681)**	**$ 830,979**
Exercise of stock options	257	—	—	—	2,586	—	—	—	2,586
Stock-based compensation expense	—	—	—	—	93,681	—	—	—	93,681
Exercise of warrants	6	—	—	—	217	—	—	—	217
Purchase of treasury stock	(631)	—	—	—	—	—	—	(24,413)	(24,413)
Restricted stock unit vesting	1,970	—	—	—	—	—	—	—	—
Shares issued in connection with business combinations	7,757	1	—	—	331,556	—	—	—	331,557
Net income (loss)	—	—	—	—	—	63,822	—	—	63,822
Balances at June 30, 2024	**485,426**	**$ 47**	**393,014**	**$ 39**	**$ 7,744,638**	**$ (6,012,689)**	**$ 36,488**	**$ (470,094)**	**$ 1,298,429**

	Class A Common Stock		Class B Common Stock		Additional Paid in Capital	Accumulated Deficit	Accumulated Other Comprehensive Income	Treasury Stock Amount	Total Stockholders' Equity
	Shares	Amount	Shares	Amount					
Balances at December 31, 2022	**450,575**	**$ 45**	**393,014**	**$ 39**	**$ 6,750,055**	**$ (5,131,801)**	**$ 36,488**	**$ (332,133)**	**$ 1,322,693**
Exercise of stock options	701	—	—	—	2,192	—	—	—	2,192
Stock-based compensation expense	—	—	—	—	117,400	—	—	—	117,400
Purchase of treasury stock	(1,399)	—	—	—	—	—	—	(27,358)	(27,358)
Restricted stock unit vesting	11,757	1	—	—	—	—	—	—	1
Net income (loss)	—	—	—	—	—	(397,148)	—	—	(397,148)
Balances at March 31, 2023	**461,634**	**$ 46**	**393,014**	**39**	**$ 6,869,647**	**$ (5,528,949)**	**$ 36,488**	**$ (359,491)**	**$ 1,017,780**
Exercise of stock options	284	—	—	—	1,144	—	—	—	1,144
Stock-based compensation expense	—	—	—	—	89,193	—	—	—	89,193
Shares issued for exercise of warrants	62	—	—	—	1,470	—	—	—	1,470
Purchase of treasury stock	(587)	—	—	—	—	—	—	(13,826)	(13,826)
Restricted stock unit vesting	1,864	—	—	—	—	—	—	—	—
Net income (loss)	—	—	—	—	—	(77,270)	—	—	(77,270)
Balances at June 30, 2023	**463,257**	**$ 46**	**393,014**	**39**	**$ 6,961,454**	**$ (5,606,219)**	**$ 36,488**	**$ (373,317)**	**$ 1,018,491**

See accompanying notes to unaudited condensed consolidated financial statements.

DRAFTKINGS INC.

CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)
(Amounts in thousands)

	Six months ended June 30,	
	2024	**2023**
Cash Flows from Operating Activities:		
Net loss attributable to common shareholders	$ (78,746)	$ (474,418)
Adjustments to reconcile net loss to net cash flows used in operating activities:		
Depreciation and amortization	114,803	96,477
Non-cash interest income, net	(1,471)	(378)
Stock-based compensation expense	183,755	206,593
Loss on remeasurement of warrant liabilities	8,303	37,076
(Gain) loss from equity method investment	(91)	442
Loss on marketable equity securities and other financial assets, net	—	75
Deferred income taxes	(79,762)	1,993
Other income (expenses), net	1,920	(3,349)
Change in operating assets and liabilities, net of effect of acquisitions:		
Receivables reserved for users	73,531	50,930
Accounts receivable	(14,494)	19,296
Prepaid expenses and other current assets	(22,698)	11,257
Deposits and other non-current assets	(179)	(6,237)
Operating leases, net	168	1,457
Accounts payable and accrued expenses	(82,154)	(79,933)
Liabilities to users	(148,107)	(86,027)
Long-term income tax liability	(1,171)	(575)
Other long-term liabilities	5,387	6,108
Net cash flows used in operating activities	**$ (41,006)**	**$ (219,213)**
Cash Flows from Investing Activities:		
Purchases of property and equipment	(5,446)	(9,649)
Cash paid for internally developed software costs	(44,072)	(39,287)
Acquisition of gaming licenses	(12,695)	(1,959)
Proceeds from marketable equity securities and other financial assets	—	24,425
Cash paid for acquisition, net of cash acquired	(392,013)	—
Other investing activities, net	(2,308)	(482)
Net cash flows used in investing activities	**$ (456,534)**	**$ (26,952)**
Cash Flow from Financing Activities:		
Proceeds from exercise of warrants	—	—
Purchase of treasury stock	(57,912)	(41,184)
Proceeds from exercise of stock options	5,443	3,336
Net cash flows used in financing activities	**$ (52,469)**	**$ (37,848)**
Net decrease in cash and cash equivalents, restricted cash, and cash reserved for users	(550,009)	(284,013)
Cash and cash equivalents, restricted cash, and cash reserved for users at the beginning of period	1,623,493	1,778,825
Cash and cash equivalents, restricted cash, and cash reserved for users at the end of period	**$ 1,073,484**	**$ 1,494,812**
Disclosure of cash and cash equivalents, restricted cash, and cash reserved for users		
Cash and cash equivalents	$ 815,880	$ 1,113,715
Restricted cash	12,844	—
Cash reserved for users	244,760	381,097
Cash and cash equivalents, restricted cash, and cash reserved for users at the end of period	**$ 1,073,484**	**$ 1,494,812**
Supplemental Disclosure of Noncash Investing and Financing Activities:		
Investing activities included in accounts payable and accrued expenses	$ 1,709	$ 637
Equity consideration issued in connection with acquisitions	$ 331,557	$ —
Decrease of warrant liabilities from cashless exercise of warrants	$ 46,398	$ 1,470
Supplemental Disclosure of Cash Activities:		
(Decrease) increase in cash reserved for users	$ (96,530)	$ 88,556

See accompanying notes to unaudited condensed consolidated financial statements.

1. Description of Business

We are a digital sports entertainment and gaming company. We provide users with online sports betting ("Sportsbook"), online casino ("iGaming") and daily fantasy sports ("DFS") product offerings, as well as retail sportsbook, media, digital lottery and other consumer product offerings. We are also involved in the design and development of sports betting and casino gaming software for online and retail sportsbooks and iGaming operators.

In May 2018, the Supreme Court (the "Court") struck down on constitutional grounds the Professional and Amateur Sports Protection Act of 1992, a law that prohibited most states from authorizing and regulating sports betting. As of June 30, 2024, 35 U.S. states, the District of Columbia and Puerto Rico have legalized some form of sports betting. Of those 37 legal jurisdictions, 32 have legalized online sports betting. All 32 of those jurisdictions are live, and DraftKings operates in 25 of them. As of June 30, 2024, the U.S. jurisdictions with statutes legalizing iGaming are Connecticut, Delaware, Michigan, New Jersey, Pennsylvania, Rhode Island and West Virginia.

As of June 30, 2024, we operate our Sportsbook product offering in Arizona, Colorado, Connecticut, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Tennessee, Vermont, Virginia, West Virginia, Wyoming and Ontario, Canada, and we operate retail sportsbooks in Arizona, Colorado, Connecticut, Illinois, Iowa, Kansas, Kentucky, Louisiana, Michigan, Mississippi, New Hampshire, New Jersey and Washington. As of June 30, 2024, we operate our iGaming product offering in Connecticut, Michigan, New Jersey, Pennsylvania, West Virginia and Ontario, Canada. The Company also has arrangements in place with land-based casinos to expand operations into additional states upon the passing of relevant legislation, the issuance of related regulations and the receipt of required licenses.

2. Summary of Significant Accounting Policies and Practices

Basis of Presentation and Principles of Consolidation

These unaudited condensed consolidated financial statements have been prepared in accordance with the rules and regulations of the Securities and Exchange Commission ("SEC") and accounting principles generally accepted in the United States of America ("U.S. GAAP") for interim reporting. As such, certain notes or other information that are normally required by U.S. GAAP have been omitted if they substantially duplicate the disclosures contained in the Company's annual audited consolidated financial statements. Accordingly, these unaudited condensed consolidated financial statements should be read in conjunction with the Company's audited financial statements and related notes as of and for the fiscal year ended December 31, 2023, which are included in our Annual Report on Form 10-K for the fiscal year ended December 31, 2023, as filed with the SEC on February 16, 2024 (the "2023 Annual Report"). These condensed consolidated financial statements are unaudited; however, in the opinion of management, they include all normal and recurring adjustments necessary for a fair presentation of the Company's condensed consolidated financial statements for the periods presented. Results of operations reported for interim periods are not necessarily indicative of results for the entire year, due to seasonal fluctuations in the Company's revenue as a result of the timing of various sports seasons, sporting events and other factors.

All intercompany accounts and transactions are eliminated upon consolidation. Certain amounts, which are not material, in the prior year's consolidated financial statements have been reclassified to conform to the current year's presentation.

Recently Issued Accounting Pronouncements Not Yet Adopted

In November 2023, the FASB issued ASU 2023-07, *Segment Reporting (Topic 280): Improvements to Reportable Segment Disclosures*, designed to improve reportable segment disclosures. The guidance expands the disclosures required for reportable segments in our annual and interim consolidated financial statements, primarily through enhanced disclosures about significant segment expenses. The standard will be effective for us beginning with our annual reporting for fiscal year 2024 and interim periods thereafter, with early adoption permitted. We are currently evaluating the impact of this standard on our segment disclosures.

In December 2023, the FASB issued ASU 2023-08, *Accounting for and Disclosure of Crypto Assets (Topic 820)*, a new standard designed to enhance decision-useful information about such assets and to better reflect the underlying economics of

cryptocurrency transactions. The standard will be effective for fiscal year 2025 including interim periods therein, with early adoption permitted. We are currently evaluating the impact of this standard on our digital assets' accounting and disclosures.

In December 2023, the FASB issued ASU 2023-09, *Income Taxes—Income Taxes (Topic 740): Improvements to Income Tax Disclosures* ("ASU 2023-09"). ASU 2023-09 modifies the rules on income tax disclosures to enhance the transparency and decision-usefulness of income tax disclosures, particularly in the rate reconciliation table and disclosures about income taxes paid. The amendments are intended to address investors' requests for income tax disclosures that provide more information to help them better understand an entity's exposure to potential changes in tax laws and the ensuing risks and opportunities and to assess income tax information that affects cash flow forecasts and capital allocation decisions. The guidance also eliminates certain existing disclosure requirements related to uncertain tax positions and unrecognized deferred tax liabilities. ASU 2023-09 is effective for public business entities for annual periods beginning after December 15, 2024. All entities are required to apply the guidance prospectively but have the option to apply it retrospectively. Early adoption is permitted. The Company is continuing to assess the timing of adoption and the potential impacts of ASU 2023-09.

3. Business Combinations

Acquisition of Jackpocket Inc. ("Jackpocket")

On February 11, 2024, the Company entered into a definitive agreement (the " Jackpocket Merger Agreement") to acquire Jackpocket, a digital lottery app in the United States (the "Jackpocket Transaction").

On May 22, 2024 (the "Jackpocket Closing Date"), DraftKings consummated the Jackpocket Transaction, and, under the terms of the Jackpocket Merger Agreement and subject to certain exclusions contained therein, Jackpocket stockholders received approximately $450.9 million of cash consideration and approximately $320.8 million of equity consideration.

The acquisition of Jackpocket allows DraftKings to participate in the U.S. lottery vertical with expected ancillary benefits to its Sportsbook and iGaming product offerings by enhancing customer lifetime value and customer acquisition capabilities.

Operating results for Jackpocket on and after the Jackpocket Closing Date are included in the Company's unaudited condensed consolidated statements of operations for the three and six months ended June 30, 2024. Because the Company is integrating Jackpocket's operations into its consolidated operating activities, the amount of revenue and earnings attributable to the Jackpocket business from the Jackpocket Closing Date through June 30, 2024, which is included within revenue and net income (loss) attributable to common stockholders in the Company's unaudited condensed consolidated statements of operations, is impracticable to determine.

Preliminary Purchase Price Accounting for the Jackpocket Transaction

On the Jackpocket Closing Date, the Company acquired 100% of the equity interests of Jackpocket pursuant to the Jackpocket Merger Agreement. The following is a summary of the consideration issued or paid on the Jackpocket Closing Date:

Cash consideration	$	450,924
Equity consideration [(1)]		320,783
Total consideration	**$**	**771,707**

(1) Includes the issuance of approximately 7.5 million shares of DraftKings Inc.'s Class A common stock issued at $41.90 per share and $6.2 million of options exercisable for shares of DraftKings Inc.'s Class A common stock, which were issued to certain Jackpocket employee optionholders in exchange for their vested Jackpocket options.

The purchase price allocation for Jackpocket set forth herein is preliminary and subject to change within the measurement period, which will not extend beyond one year from the Jackpocket Closing Date. Measurement period adjustments will be recognized in the reporting period in which the adjustment amounts are determined and may include adjustments pertaining to intangible assets acquired and tax liabilities assumed, including the calculation of deferred tax assets and liabilities. Any such adjustments may be material.

The following table summarizes the preliminary fair value of the assets acquired and liabilities assumed in connection with the consummation of the Jackpocket Transaction on the Jackpocket Closing Date. The values set forth below are preliminary, pending finalization of valuation analyses:

Cash and cash equivalents	$	45,999
Cash reserved for users		23,349
Receivables reserved for users		9,092
Prepaid expenses and other current assets		4,151
Property and equipment		1,523
Intangible assets		269,736
Operating lease right-of-use assets		2,579
Deposits and other non-current assets		136
Total identifiable assets acquired	**$**	**356,565**
Liabilities assumed:		
Accounts payable and accrued expenses	$	33,961
Liabilities to users		16,877
Operating lease liabilities		2,580
Other long-term liabilities		80,463
Total liabilities assumed	**$**	**133,881**
Net assets acquired (a)	**$**	**222,684**
Purchase consideration (b)	**$**	**771,707**
Goodwill (b) – (a)	**$**	**549,023**

Goodwill represents the excess of the gross consideration transferred over the difference between the fair value of the underlying net assets acquired and the underlying liabilities assumed. Qualitative factors that contribute to the recognition of goodwill include certain intangible assets that are not recognized as separate identifiable intangible assets apart from goodwill. Intangible assets not recognized apart from goodwill consist primarily of benefits from securing buyer-specific synergies that increase revenue and profits and are not otherwise available to a market participant, as well as acquiring a talented workforce and cost savings opportunities. Goodwill recognized is not deductible for tax purposes. Goodwill associated with the Jackpocket Transaction is assigned as of the Jackpocket Closing Date to the Company’s consolidated reporting unit. As Jackpocket's financial results are not material to the Company’s consolidated financial statements, the Company has elected to not include pro forma results.

Intangible Assets

		Fair Value	Weighted-Average Useful Life
Customer Relationships	$	174,000	8.0 years
Developed Technology		67,000	5.0 years
Trade Name		27,000	7.0 years
Market Access		1,736	2.9 years
Total	**$**	**269,736**	

Transaction Costs

For the three and six months ended June 30, 2024, the Company incurred $10.4 million and $15.3 million in advisory, legal, accounting and management fees in connection with the Jackpocket Transaction, respectively, which are included in general and administrative expenses on the Company's unaudited condensed consolidated statements of operations.

Acquisition of Sports IQ Analytics Inc. ("SIQ")

On May 7, 2024, the Company acquired 100% of the equity interests of SIQ for a mix of cash and shares of DraftKings Inc.'s Class A common stock (the "SIQ Transaction"). The acquisition of SIQ allows DraftKings to bring further pricing and trading capabilities in-house in an effort to drive margin expansion and product differentiation. The acquired assets and assumed liabilities of SIQ were recorded at their estimated fair values. Goodwill associated with the SIQ Transaction is assigned as of the acquisition date to the Company's consolidated reporting unit. The purchase price allocation for the SIQ Transaction is preliminary as of June 30, 2024. Goodwill recognized is not deductible for tax purposes and transaction costs were not significant. As SIQ's financial results are not material to the Company's consolidated financial statements, the Company has elected to not include pro forma results.

4. Intangible Assets

Intangible Assets

As of June 30, 2024, intangible assets, net consists of the following:

	Weighted-Average Remaining Amortization Period	Gross Carrying Amount	Accumulated Amortization	Net
Amortized intangible assets:				
Developed technology	4.3 years	$ 513,622	$ (221,682)	$ 291,940
Internally developed software	2.3 years	291,044	(139,765)	151,279
Gaming licenses	8.8 years	233,191	(59,024)	174,167
Customer relationships	6.3 years	443,728	(156,314)	287,414
Trademarks, tradenames and other	5.6 years	66,211	(24,514)	41,697
		$ 1,547,796	$ (601,299)	$ 946,497
Indefinite-lived intangible assets:				
Digital assets, net of impairment	Indefinite-lived	2,884	N/A	2,884
Total		**$ 1,550,680**	**$ (601,299)**	**$ 949,381**

As of December 31, 2023, intangible assets, net consists of the following:

	Weighted-Average Remaining Amortization Period	Gross Carrying Amount	Accumulated Amortization	Net
Amortized intangible assets:				
Developed technology	4.4 years	$ 422,900	$ (193,247)	$ 229,653
Internally developed software	2.3 years	236,644	(108,169)	128,475
Gaming licenses	10.6 years	218,760	(47,941)	170,819
Customer relationships	4.1 years	269,728	(127,862)	141,866
Trademarks and tradenames	3.3 years	37,674	(20,751)	16,923
		$ 1,185,706	$ (497,970)	$ 687,736
Indefinite-lived intangible assets:				
Digital assets	Indefinite-lived	2,884	N/A	2,884
Total		**$ 1,188,590**	**$ (497,970)**	**$ 690,620**

Amortization expense was $56.3 million and $103.6 million for the three and six months ended June 30, 2024, respectively, and $43.0 million and $86.2 million for the three and six months ended June 30, 2023, respectively.

The table below reflects expected amortization expense for the next five years of intangible assets recorded as of June 30, 2024:

Year ending December 31,		Estimated Amortization
July 1, 2024 to December 31, 2024	$	126,133
2025		214,399
2026		176,206
2027		144,992
2028		95,251

Goodwill

The changes in the carrying amount of goodwill for the year ended December 31, 2023 and the six months ended June 30, 2024 are:

		Total
Balance as of December 31, 2022	**$**	**886,373**
Changes in Goodwill		—
Balance as of December 31, 2023	**$**	**886,373**
Goodwill resulting from acquisitions		569,636
Balance as of June 30, 2024	**$**	**1,456,009**

No impairment of goodwill was recorded in the three or six months ended June 30, 2024. As of June 30, 2024, the Company had no accumulated goodwill impairment losses.

5. Current and Long-term Liabilities

Revolving Line of Credit

On December 20, 2022, the Company entered into a loan and security agreement with Banc of California (formerly Pacific Western Bank) and Citizens Bank, as lenders (as amended, the "Credit Agreement"), which provides the Company with a revolving line of credit of up to $125.0 million (the "Revolving Line of Credit"). The Credit Agreement maturity date was extended from December 20, 2024 to December 20, 2025, effective July 31, 2024. The Credit Agreement replaced the Company's amended and restated loan and security agreement entered into with Pacific Western Bank in October 2016, which provided a revolving line of credit of up to $60.0 million and was terminated in connection with the Company's entry into the Credit Agreement.

Borrowings under the Credit Agreement bear interest at a variable annual rate equal to the greater of (i) 1.00% above the prime rate then in effect and (ii) 5.00%, and the Credit Agreement requires monthly, interest-only payments on any outstanding borrowings. In addition, the Company is required to pay quarterly in arrears a commitment fee equal to 0.25% per annum of the unused portion of the Revolving Line of Credit. As of June 30, 2024, the Credit Agreement provided a revolving line of credit of up to $125.0 million, and there was no principal outstanding under the Credit Agreement. Net borrowing capacity available from the Credit Agreement as of June 30, 2024 totaled $122.7 million. The Company is also subject to certain affirmative and negative covenants, including the restriction of dividends, under the Credit Agreement which the Company is in compliance with as of June 30, 2024. One such covenant involves maintaining compensating cash balances. The compensating balances may be withdrawn but the availability of the line of credit is dependent upon maintenance of such compensating balances. The performance of the Company's obligations under the Credit Agreement are secured by a first-priority security interest on substantially all of its assets.

Convertible Notes and Capped Call Transactions

In March 2021, DraftKings Holdings Inc. (formerly DraftKings Inc.), a Nevada corporation ("Old DraftKings"), issued zero-coupon convertible senior notes in an aggregate principal amount of $1,265.0 million, which includes proceeds from the full exercise of the over-allotment option (collectively, the "Convertible Notes"). The Convertible Notes will mature on March 15, 2028 (the "Notes Maturity Date"), subject to earlier conversion, redemption or repurchase. In connection with the issuance of the Convertible Notes, Old DraftKings incurred $17.0 million of lender fees and $1.7 million of debt financing costs, which are being amortized through the Notes Maturity Date. The Convertible Notes represent senior unsecured obligations of Old DraftKings, which are being amortized through the Notes Maturity Date.

The Convertible Notes are convertible at an initial conversion rate of 10.543 shares of DraftKings Inc.'s Class A common stock per $1,000 principal amount of Convertible Notes, which is equivalent to an initial conversion price of approximately $94.85 per share of DraftKings Inc.'s Class A common stock. The conversion rate is subject to adjustment upon the occurrence of certain specified events and includes a make-whole adjustment upon early conversion in connection with a make-whole fundamental change (as defined in the indenture governing the Convertible Notes). Since the issuance of the Convertible Notes, there have been no changes to the initial conversion price.

Prior to September 15, 2027, the Convertible Notes will be convertible by the holder only upon satisfaction of certain conditions and during certain periods, and thereafter, at any time until the close of business on the second scheduled trading day immediately preceding the Notes Maturity Date. Old DraftKings will satisfy any conversion election by paying or delivering, as the case may be, cash, shares of DraftKings Inc.'s Class A common stock or a combination of cash and shares of DraftKings Inc.'s Class A common stock. As of June 30, 2024, no conditions were met to allow for the conversion of the Convertible Notes by any holder.

In connection with the pricing of the Convertible Notes and the exercise of the over-allotment option to purchase additional notes, Old DraftKings entered into a privately negotiated capped call transaction ("Capped Call Transactions"). The Capped Call Transactions have a strike price of $94.85 per share, subject to certain adjustments, which corresponds to the initial conversion price of the Convertible Notes. The Capped Call Transactions have an initial cap price of $135.50 per share, subject to certain adjustments. The Capped Call Transactions are expected generally to reduce potential dilution to DraftKings Inc.'s Class A common stock upon any conversion of Convertible Notes. As the transaction qualifies for equity classification, the net cost of $124.0 million incurred in connection with the Capped Call Transactions was recorded as a reduction to additional paid-in capital on the Company's consolidated balance sheet.

As of June 30, 2024, the Company's convertible debt balance was $1,255.1 million, net of unamortized debt issuance costs of $9.9 million. The amortization of debt issuance costs was $0.7 million and $1.3 million for the three and six months ended June 30, 2024, respectively, and $0.7 million and $1.3 million for the three and six months ended June 30, 2023, respectively, which are included in the interest expense line-item on the Company's consolidated statements of operations. Although recorded at amortized cost on the Company's consolidated balance sheets, the estimated fair value of the Convertible Notes was $1,046.4 million and $1,025.6 million as of June 30, 2024 and December 31, 2023, respectively, which was calculated using the estimated or actual bids and offers of the Convertible Notes in an over-the-counter market on the last business day of the period, which is a Level 1 fair value measurement.

Indirect Taxes

Taxation of e-commerce is becoming more prevalent and could negatively affect the Company's business as it primarily pertains to DFS and its contestants. The ultimate impact of indirect taxes on the Company's business is uncertain, as is the period required to resolve this uncertainty. The Company's estimated contingent liability for indirect taxes represents the Company's best estimate of tax liability in jurisdictions in which the Company believes taxation is probable. The Company frequently reevaluates its tax positions for appropriateness.

Indirect tax statutes and regulations are complex and subject to differences in application and interpretation. Tax authorities may impose indirect taxes on Internet-delivered activities based on statutes and regulations which, in some cases, were established prior to the advent of the Internet and do not apply with certainty to the Company's business. The Company's estimated contingent liability for indirect taxes may be materially impacted by future audit results, litigation and settlements, should they occur. The Company's activities by jurisdiction may vary from period to period, which could result in differences in the applicability of indirect taxes from period to period.

As of June 30, 2024 and December 31, 2023, the Company's estimated contingent liability for indirect taxes was $80.3 million and $71.2 million, respectively. The estimated contingent liability for indirect taxes is recorded within other long-term liabilities on the condensed consolidated balance sheets and general and administrative expenses on the condensed consolidated statements of operations.

Warrant Liabilities

As part of the initial public offering of Diamond Eagle Acquisition Corp. ("DEAC") on May 14, 2019 (the "IPO"), DEAC issued 13.3 million warrants each of which entitles the holder to purchase one share of DraftKings Inc.'s Class A common stock at an exercise price of $11.50 per share (the "Public Warrants"). Simultaneously with the closing of the IPO, DEAC completed the private sale of 6.3 million warrants to DEAC's sponsor (the "Private Warrants"), each of which entitles the holder to purchase one share of DraftKings Inc.'s Class A common stock at an exercise price of $11.50 per share. As of June 30, 2024, there were no Public Warrants outstanding and 0.4 million Private Warrants outstanding. On May 5, 2022 (the "GNOG Closing Date"), DraftKings Inc. (formerly New Duke Holdco, Inc.) consummated the acquisition of Golden Nugget Online Gaming, Inc., a Delaware corporation, pursuant to a definitive agreement and plan of merger, dated August 9, 2021, in an all-stock transaction (the "GNOG Transaction"). On the GNOG Closing Date, in connection with the consummation of the GNOG Transaction, Old DraftKings entered into an assignment and assumption agreement (the "Old DraftKings Warrant Assignment Agreement") with DraftKings Inc., Computershare Trust Company, N.A. and Computershare Inc. (together, "Computershare"), pursuant to which Old DraftKings assigned to DraftKings Inc. all of its rights, interests and obligations under the warrant agreement, dated as of May 10, 2019 (the "Old DraftKings Warrant Agreement"), by and between DEAC and Continental Stock Transfer & Trust Company, as warrant agent, as assumed by Old DraftKings and assigned to Computershare by that certain assignment and assumption agreement, dated as of April 23, 2020, governing Old DraftKings' outstanding Private Warrants, on the terms and conditions set forth in the Old DraftKings Warrant Assignment Agreement. In connection with the consummation of the GNOG Transaction and pursuant to the Old DraftKings Warrant Assignment Agreement, each of the outstanding Private Warrants became exercisable for one share of DraftKings Inc. Class A common stock on the existing terms and conditions, except as otherwise described in the Old DraftKings Warrant Assignment Agreement.

In addition, on the GNOG Closing Date, in connection with the consummation of the GNOG Transaction, the Company assumed an additional 5.9 million warrants, each of which entitled the holder to purchase one share of GNOG's Class A common stock at an exercise price of $11.50 per share (the "GNOG Private Warrants"). Effective as of the consummation of the GNOG Transaction, each of the outstanding GNOG Private Warrants became exercisable for 0.365 of a share of DraftKings Inc.'s Class A common stock, or approximately 2.1 million shares of DraftKings Inc.'s Class A common stock in the aggregate, on the existing terms and conditions of such GNOG Private Warrants, except as otherwise described in the assignment and assumption agreement relating to the GNOG Private Warrants entered into on the GNOG Closing Date. As of June 30, 2024, there were 2.9 million GNOG Private Warrants outstanding, convertible into approximately 1.1 million shares of DraftKings Inc.'s Class A common stock.

The Company classifies the Public Warrants, the Private Warrants and the GNOG Private Warrants pursuant to Accounting Standards Codification Topic 815, Derivatives and Hedging, as derivative liabilities with subsequent changes in their respective fair values recognized in its consolidated statement of operations at each reporting date. As of June 30, 2024, the fair value of the Company's warrant liability was $25.5 million.

Due to fair value changes, the Company recorded a gain on the remeasurement of its warrant liabilities of $9.8 million for the three months ended June 30, 2024 and a loss of $20.0 million for the three months ended June 30, 2023. During the six months ended June 30, 2024 and 2023, the Company recorded losses on the remeasurement of its warrant liabilities of $8.3 million and $37.1 million, respectively.

During the three and six months ended June 30, 2024, 0.1 million and 1.0 million Private Warrants were exercised, respectively. There were no GNOG Private Warrants exercised during the three months ended June 30, 2024, and 2.9 million GNOG Private Warrants were exercised during the six months ended June 30, 2024. These GNOG Private Warrants exercises resulted in the issuance of approximately 1.1 million shares of DraftKings Inc. Class A common stock as some were exercised on a cashless basis.

6. Fair Value Measurements

Certain assets and liabilities are carried at fair value under U.S. GAAP. Fair value is defined as 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. Valuation techniques used to measure fair value must maximize the use of observable inputs and minimize the use of unobservable inputs. Financial assets and liabilities carried at fair value and nonrecurring fair value measurements are to be classified and disclosed in one of the following three levels of the fair value hierarchy, of which the first two are considered observable and the last is considered unobservable:

- Level 1 — Quoted prices in active markets for identical assets or liabilities.

- Level 2 — Observable inputs (other than Level 1 quoted prices), such as quoted prices in active markets for similar assets or liabilities, quoted prices in markets that are not active for identical or similar assets or liabilities, or other inputs that are observable or can be corroborated by observable market data.

- Level 3 — Unobservable inputs that are supported by little or no market activity and that are significant to determining the fair value of the assets or liabilities, including pricing models, discounted cash flow methodologies and similar techniques.

The following tables set forth the fair value of the Company's financial assets and liabilities measured at fair value as of June 30, 2024 and December 31, 2023 based on the three-tier fair value hierarchy:

	June 30, 2024			
	Level 1	Level 2	Level 3	Total
Assets				
Other current assets:				
Digital assets held for users	$ —	$ 68,078 (2)	$ —	$ 68,078
Other non-current assets:				
Derivative instruments	—	—	19,999 (4)	19,999
Equity securities	—	13,533 (3)	—	13,533
Total	**$ —**	**$ 81,611**	**$ 19,999**	**$ 101,610**
Liabilities				
Other current liabilities:				
Digital assets held for users	$ —	$ 68,078 (2)	$ —	$ 68,078
Warrant liabilities	—	25,477 (5)	—	25,477
Other long-term liabilities			21,130 (6)	21,130
Total	**$ —**	**$ 93,555**	**$ —**	**$ 114,685**

	December 31, 2023			
	Level 1	Level 2	Level 3	Total
Assets				
Cash equivalents:				
Money market funds	$ 250,055 (1)	$ —	$ —	$ 250,055
Other current assets:				
Digital assets held for users	—	46,624 (2)	—	46,624
Other non-current assets:				
Derivative instruments	—	—	19,999 (4)	19,999
Equity securities	—	13,533 (3)	—	13,533
Total	**$ 250,055**	**$ 60,157**	**$ 19,999**	**$ 330,211**
Liabilities				
Other current liabilities:				
Digital assets held for users	$ —	$ 46,624 (2)	$ —	$ 46,624
Warrant liabilities	—	63,568 (5)	—	63,568
Total	**$ —**	**$ 110,192**	**$ —**	**$ 110,192**

(1) Represents the Company's money market funds, which are classified as Level 1 because the Company measures these assets to fair value using quoted market prices.
(2) Represents the asset and liability balance for the digital assets held by the Company for its users, which are classified as Level 2 because the Company measures these digital assets to fair value using latest transaction price for similar transactions.
(3) Represents the Company's non-marketable equity securities, which are classified as Level 2 because the Company measures these assets to fair value using observable inputs for similar investments of the same issuer. The Company has elected the remeasurement alternative for these assets.
(4) Represents the Company's derivative instruments held in other public and privately held entities. The Company measures these derivative instruments to fair value using option pricing models and, accordingly, classifies these assets as Level 3. There were no new Level 3 derivative instruments sold, purchased by or issued to the Company during the six months ended June 30, 2024. The table below includes a range and an average weighted by relative fair value of the significant unobservable inputs used to measure these Level 3 derivative instruments to fair value. A change in these significant unobservable inputs might result in a significantly higher or lower fair value measurement at the reporting date. Changes to fair value of these instruments are recorded in Other (loss) income, net on the consolidated statements of operations and loss (gain) on marketable equity securities and other financial assets, net in the consolidated statement of cash flows.

	June 30, 2024	December 31, 2023
Significant Unobservable Input of Level 3 Investments	**Range (Weighted Average)**	**Range (Weighted Average)**
Underlying stock price	$12.79 - $19.80 ($19.41)	$12.79 - $19.80 ($19.41)
Volatility	75.0% - 80.0% (79.7%)	75.0% - 80.0% (79.7%)
Risk-free rate	1.3% - 4.2% (4.0%)	1.3% - 4.2% (4.0%)

(5) The Company measures its Private Warrants and the GNOG Private Warrants to fair value using a binomial lattice model or a Black-Scholes model, where appropriate, with the significant assumptions being observable inputs and, accordingly, classifies these liabilities as Level 2. Key assumptions used in the valuation of the Private Warrants and GNOG Private Warrants include term, risk free rate and volatility.
(6) Represents the contingent consideration issuable to former SIQ securityholders in connection with the SIQ Transaction upon the achievement of certain performance targets. The Company measures this contingent consideration at fair value using a Monte Carlo simulation in an option pricing framework and, accordingly, classifies these liabilities as Level 3. The significant unobservable inputs used to measure the fair value include a revenue risk premium of 5.1%, revenue volatility of 17.3%, operational leverage ratio of 70.0%, as well as management judgment regarding the probability of achieving a future performance target. A change in these significant unobservable inputs might result in a significantly higher or lower fair value measurement at the reporting date. Changes to fair value of these instruments are recorded in Other (loss) gain, net on the consolidated statements of operations.

7. Revenue Recognition

Deferred Revenue

The Company includes deferred revenue within accounts payable and accrued expenses and liabilities to users in the condensed consolidated balance sheets. The deferred revenue balances were as follows:

	Three months ended June 30,		Six months ended June 30,	
	2024	2023	2024	2023
Deferred revenue, beginning of the period	$ 128,869	$ 132,213	$ 174,212	$ 133,851
Deferred revenue, end of the period	$ 117,490	$ 105,478	$ 117,490	$ 105,478
Revenue recognized in the period from amounts included in deferred revenue at the beginning of the period	$ 103,033	$ 92,764	$ 168,604	$ 127,758

Deferred revenue primarily represents contract liabilities related to the Company's obligation to transfer future value in relation to in period transactions in which the Company has received consideration. These obligations are primarily related to incentive programs and wagered amounts associated with unsettled or pending outcomes that fluctuate based on volume of activity. Such obligations are recognized as liabilities when awarded to users and are recognized as revenue when those liabilities are later resolved, often within the following year.

Revenue Disaggregation

Disaggregation of revenue for the three and six months ended June 30, 2024 and 2023 is as follows:

	Three months ended June 30,		Six months ended June 30,	
	2024	2023	2024	2023
Online gaming	$ 1,087,327	$ 849,839	$ 2,239,513	$ 1,585,028
Gaming software	3,618	8,581	9,849	17,191
Other	13,496	16,507	30,075	42,360
Total Revenue	**$ 1,104,441**	**$ 874,927**	**$ 2,279,437**	**$ 1,644,579**

Online gaming includes online Sportsbook, iGaming, digital lottery, and DFS, which have certain similar attributes and patterns of recognition. Other revenue primarily includes media, retail sportsbooks and other consumer product offerings. The opening and closing balances of the Company's accounts receivable from contracts with customers were $47.5 million and $65.0 million for the six months ended June 30, 2024, respectively, and $160.1 million and $109.2 million for the six months ended June 30, 2023, respectively.

8. Stock-Based Compensation

The Company has historically issued three types of stock-based compensation: time-based awards, long-term incentive plan ("LTIP") awards and performance-based stock compensation plan ("PSP") awards. Time-based awards are equity awards that tie vesting to length of service with the Company and generally vest over a four-year period in annual and/or quarterly installments. LTIP awards are performance-based equity awards that are used to establish longer-term performance objectives and incentivize management to meet those objectives. PSP awards are performance-based equity awards which establish performance objectives related to one or two particular fiscal years. LTIP awards generally vest when revenue and/or Adjusted EBITDA targets are achieved amongst other conditions, while PSP awards generally vest upon achievement of revenue and/or Adjusted EBITDA targets and have a range of payouts amongst other conditions. All stock-based compensation awards expire seven to ten years after the grant date thereof.

The following table shows restricted stock unit ("RSU") and stock option activity for the six months ended June 30, 2024:

	Time-Based		PSP		LTIP		Total	Weighted Average Exercise Price of Options	Weighted Average FMV of RSUs
	Options	RSUs	Options	RSUs	Options	RSUs			
Outstanding at December 31, 2023	**10,360**	**17,881**	**1,389**	**13,809**	**10,506**	**1,255**	**55,200**	**$ 7.10**	**$ 21.01**
Granted	561	6,284	—	1,361	—	—	8,206	26.22	43.54
Exercised options / vested RSUs	(655)	(4,229)	(2)	—	(230)	(261)	(5,377)	10.08	26.16
Change in awards due to performance-based multiplier	—	—	—	—	—	—	—	—	—
Forfeited	—	(864)	—	(271)	—	(93)	(1,228)	—	24.20
Outstanding at June 30, 2024	**10,266**	**19,072**	**1,387**	**14,899**	**10,276**	**901**	**56,801**	**$ 7.63**	**$ 27.22**

As of June 30, 2024, total unrecognized stock-based compensation expense of $750.6 million related to granted and unvested stock-based compensation arrangements is expected to be recognized over a weighted-average period of 2.7 years. The following tables shows stock compensation expense for the three and six months ended June 30, 2024 and 2023:

	Three Months Ended June 30, 2024			Three Months Ended June 30, 2023		
	Options	RSUs	Total	Options	RSUs	Total
Time-based (1)	$ 7,934	$ 43,740	$ 51,674	$ 2,546	$ 38,752	$ 41,298
PSP (2)	—	37,449	37,449	—	35,872	35,872
LTIP (2)	—	1,097	1,097	—	12,023	12,023
Total	**$ 7,934**	**$ 82,286**	**$ 90,220**	**$ 2,546**	**$ 86,647**	**$ 89,193**

	Six Months Ended June 30, 2024			Six Months Ended June 30, 2023		
	Options	RSUs	Total	Options	RSUs	Total
Time-based (1)	$ 9,978	$ 82,797	$ 92,775	$ 6,390	$ 83,559	$ 89,949
PSP (2)	—	89,801	89,801	—	59,887	59,887
LTIP (2)	—	1,179	1,179	—	56,757	56,757
Total	**$ 9,978**	**$ 173,777**	**$ 183,755**	**$ 6,390**	**$ 200,203**	**$ 206,593**

(1) Time-based awards vest and are expensed over a defined service period.
(2) PSP and LTIP awards vest based on defined performance criteria and are expensed based on the probability of achieving such criteria.

9. Income Taxes

The Company's (benefit) provision for income taxes for the three and six months ended June 30, 2024 and 2023 is as follows:

	Three months ended June 30,		Six months ended June 30,	
	2024	2023	2024	2023
Income tax (benefit) provision	$ (73,570)	$ 651	$ (73,921)	$ 2,019

The effective tax rates for the three months ended June 30, 2024 and 2023 were 773.6% and (0.9)%, respectively, and the effective tax rates for the six months ended June 30, 2024 and 2023 were 48.4% and (0.4)%, respectively. The difference between the Company's effective tax rates for the three and six month periods in 2024 and 2023 and the U.S. statutory tax rate of 21% was primarily due to a valuation allowance related to the Company's deferred tax assets, offset partially by current state tax and current foreign tax. Additionally, the Company recorded a discrete income tax benefit of $75.8 million during the second quarter of 2024, which was attributable to non-recurring partial releases of the Company's U.S. valuation allowance as a result of the purchase accounting for Jackpocket. The Company regularly evaluates the realizability of its deferred tax assets and establishes a valuation allowance if it is more likely than not that some or all of the deferred tax assets will not be realized.

10. Earnings (Loss) Per Share

The table below reconciles basic and diluted earnings per share of the Company's Class A common stock for the periods presented:

	Three months ended June 30,		Six months ended June 30,	
	2024	2023	2024	2023
Numerator:				
Net income (loss) attributable to common stockholders – basic	$ 63,822	$ (77,270)	$ (78,746)	$ (474,418)
Gain on remeasurement of warrant liabilities	(9,791)	—	—	—
Net income (loss) attributable to common stockholders – diluted	$ 54,031	$ (77,270)	$ (78,746)	$ (474,418)
Denominator:				
Weighted-average Class A common stock outstanding – basic	479,307	462,432	476,788	458,910
Weighted-average diluted impact of options and RSUs [1]	25,616	—	—	—
Weighted-average diluted impact of convertible notes [2]	13,337	—	—	—
Weighted-average diluted impact of warrant liabilities [1]	525	—	—	—
Weighted-average Class A common stock outstanding – diluted	518,785	462,432	476,788	458,910
Anti-dilutive securities excluded from the calculation of diluted earnings per share	282	N/A	N/A	N/A
Basic earnings per share attributable to common stockholders:	$ 0.13	$ (0.17)	$ (0.17)	$ (1.03)
Diluted earnings per share attributable to common stockholders:	$ 0.10	$ (0.17)	$ (0.17)	$ (1.03)

(1) Calculated using the treasury stock method
(2) Calculated using the if-converted method

There were no preferred or other dividends declared for the three and six months ended June 30, 2024. The below table includes the total securities potentially dilutive for the six month period ending June 30, 2024 and the three and six month period ending June 30, 2023 which have been excluded from the computation of diluted earnings (loss) per share as their effect is anti-dilutive.

	June 30, 2024	June 30, 2023
Class A common stock resulting from exercise of all warrants	1,441	3,648
Stock Options and RSUs	56,801	66,009
Convertible notes	13,337	13,337
Total	**71,579**	**82,994**

11. Related-Party Transactions

Receivables from Equity Method Investments

The Company provides office space and general operational support to DKFS, LLC, an equity-method affiliate. The operational support is primarily in the form of general and administrative services. There were no receivables related to these services as of June 30, 2024 or December 31, 2023. The Company has also committed to invest up to $17.5 million into DBDK Venture Fund I, LP, a Delaware limited partnership and a subsidiary of DKFS, LLC. As of June 30, 2024, the Company had invested a total of $8.4 million of the total commitment.

Transactions with a Former Director and their Immediate Family Members

For the three and six months ended June 30, 2024, the Company had no sales to entities owned by an immediate family member of a former director of the Company. For the three and six months ended June 30, 2023, the Company had $0.5 million and $1.2 million in sales, respectively, to entities owned by an immediate family member of a former director of the Company. The Company had no associated accounts receivable balance as of June 30, 2024 or December 31, 2023.

Aircraft

On each of March 30, 2024 and 2023, the Company renewed a one-year lease of an aircraft from an entity controlled by Mr. Robins, pursuant to which Mr. Robins' entity leased the aircraft to the Company for $0.6 million for a one-year period (the "Aircraft Leases"). The Company covered all operating, maintenance and other expenses associated with the aircraft. The audit and compensation committees of the Company's Board of Directors approved this arrangement, as well as the Aircraft Leases, based on, among other things, the requirements of the overall security program that Mr. Robins and his family fly private and the committees' assessment that such an arrangement is more efficient and flexible and better ensures safety, confidentiality and privacy. During the three and six months ended June 30, 2024, the Company incurred $0.1 million and $0.3 million of expense under the Aircraft Leases as well as $0.3 million for upgrades related to the aircraft. During the three and six months ended June 30, 2023, the Company incurred $0.1 million and $0.3 million of expense under the Aircraft Leases, respectively.

12. Leases, Commitments and Contingencies

Leases

The Company leases corporate office facilities, data centers, and motor vehicles under operating lease agreements. Some of the Company's leases include one or more options to renew. For a majority of the Company's leases, it does not assume renewals in its determination of the lease term as the renewals are not deemed to be reasonably assured. The Company's lease agreements generally do not contain any material residual value guarantees or material restrictive covenants. As of June 30, 2024, the Company's lease agreements typically have terms not exceeding ten years.

Payments under the Company's lease arrangements may be fixed or variable, and variable lease payments primarily represent costs related to common area maintenance and utilities. The components of lease expense are as follows:

	Three months ended June 30,		Six months ended June 30,	
	2024	2023	2024	2023
Operating lease cost	$ 5,042	$ 3,490	$ 9,870	$ 8,519
Short term lease cost	—	530	343	1,861
Variable lease cost	422	1,714	1,938	2,832
Sublease income	—	(231)	—	(468)
Total lease cost	**$ 5,464**	**$ 5,503**	**$ 12,151**	**$ 12,744**

Supplemental cash flow and other information for the six months ended June 30, 2024 and 2023 related to operating leases was as follows:

	Six months ended June 30,	
	2024	2023
Cash paid for amounts included in the measurement of lease liabilities:		
Operating cash flows used for operating leases	$ 4,527	$ 6,123
Right-of-use assets obtained in exchange for new operating lease liabilities	$ 2,579	$ 366

The weighted-average remaining lease term and weighted-average discount rate for the Company's operating leases were 6.9 years and 6.5% as of June 30, 2024. The Company calculated the weighted-average discount rates using incremental borrowing rates, which equal the rates of interest that it would pay to borrow funds on a fully collateralized basis over a similar term.

Maturities of lease liabilities are as follows:

	Years Ending December 31,
From July 1, 2024 to December 31, 2024	$ 8,655
2025	15,288
2026	14,720
2027	15,565
2028	16,246
Thereafter	39,685
Total undiscounted future cash flows	110,159
Less: Imputed interest	(20,515)
Present value of undiscounted future cash flows	**$ 89,644**

Other Contractual Obligations and Contingencies

The Company is a party to several non-cancelable contracts with vendors where the Company is obligated to make future minimum payments under the terms of these contracts as follows:

	Years Ending December 31,
From July 1, 2024 to December 31, 2024	$ 249,782
2025	380,681
2026	215,761
2027	120,668
2028	86,952
Thereafter	181,979
Total	**$ 1,235,823**

Surety Bonds

As of June 30, 2024, the Company has been issued $265.0 million in surety bonds at a combined annual premium cost of 0.4%, which are held for certain regulators' use and benefit in order for the Company to satisfy state license requirements. There have been no claims against such bonds and the likelihood of future claims is remote.

Contingencies

From time to time, and in the ordinary course of business, the Company may be subject to certain claims, charges and litigation concerning matters arising in connection with the conduct of the Company's business activities.

Interactive Games LLC

On June 14, 2019, Interactive Games LLC filed suit against the Company in the U.S. District Court for the District of Delaware, alleging that our Daily Fantasy Sports product offering infringes two patents and the Company's Sportsbook product offering infringes two different patents. On April 9, 2024, Interactive Games LLC dismissed the lawsuit without prejudice.

Winview Inc.

On July 7, 2021, Winview Inc., a Delaware corporation, filed suit against the Company in the U.S. District Court for the District of New Jersey, which was subsequently amended on July 28, 2021, alleging that our Sportsbook product offering infringes two patents, our Daily Fantasy Sports product offering infringes one patent, and that our Sportsbook product offering and Daily Fantasy Sports product offering infringe another patent. On November 15, 2021, Winview Inc. filed a second amended complaint (the "SAC"), adding as defendants DK Crown Holdings Inc. ("DK DE") and Crown Gaming Inc., a Delaware corporation, which are wholly-owned subsidiaries of the Company. The SAC largely repeats the allegations of the first amended complaint.

The Company intends to vigorously defend this case. In the event that a court ultimately determines that the Company is infringing the asserted patents, it may be subject to substantial damages, which may include treble damages and/or an injunction that could require the Company to modify certain features that we currently offer.

The Company cannot predict with any degree of certainty the outcome of the suit or determine the extent of any potential liability or damages. The Company also cannot provide an estimate of the possible loss or range of loss. Any adverse outcome in these matters could expose the Company to substantial damages or penalties that may have a material adverse impact on the Company's operations and cash flows.

Despite the potential for significant damages, the Company does not believe, based on currently available information, that the outcome of this proceeding will have a material adverse effect on the Company's financial condition, although the outcome could be material to the Company's operating results for any particular period, depending, in part, upon the operating results for such period.

Securities Matters Arising From the Hindenburg Report and Related Matters

Beginning on July 9, 2021, the Company received subpoenas from the SEC seeking documents concerning, among other things, allegations concerning SBTech that were contained in a report published about the Company on June 15, 2021 by Hindenburg Research, as well as the Company's adherence to and disclosures regarding its compliance policies and procedures, and related matters. The Company intends to comply with the related requests and is cooperating with the SEC's ongoing inquiry.

The Company cannot predict with any degree of certainty the outcome of the SEC matter or determine the extent of any potential liabilities. The Company also cannot provide an estimate of the possible loss or range of loss. Any adverse outcome in the SEC matter could expose the Company to substantial damages or penalties that may have a material adverse impact on the Company's operations and cash flows.

Despite the potential for significant damages, the Company does not believe, based on currently available information, that the outcome of the SEC matter will have a material adverse effect on the Company's financial condition, although the outcome could be material to the Company's operating results for any particular period, depending, in part, upon the operating results for such period.

Matters Related to the GNOG Transaction

On August 12, 2022, a putative class action was filed in Nevada state District Court in Clark County against Golden Nugget Online Gaming, Inc. ("GNOG Inc."), the Company and one of its officers and two affiliates, as well as former officers or directors and the former controlling stockholder of GNOG Inc. and Jefferies LLC. The lawsuit asserts claims on behalf of a putative class of former minority stockholders of GNOG Inc. alleging that certain former officers and directors of GNOG Inc. and its former controlling stockholder (Tilman Fertitta and/or Fertitta Entertainment, Inc.) breached their fiduciary duties to minority stockholders of GNOG Inc. in connection with the GNOG Transaction, and the other defendants aided and abetted the alleged breaches of fiduciary duty.

On September 9, 2022, two similar putative class actions were filed in the Delaware Court of Chancery against former directors of GNOG Inc. and its former controlling stockholder, one of which also names the Company and Jefferies Financial Group, Inc. as defendants. These pending actions in Delaware assert substantially similar claims on behalf of a putative class of former minority stockholders of GNOG Inc. alleging that certain former officers and directors of GNOG Inc. and its former controlling stockholder (Tilman Fertitta) breached their fiduciary duties to minority stockholders of GNOG Inc. in connection with the GNOG Transaction, and one of the actions also alleges that the Company aided and abetted the alleged breaches of fiduciary duty. On October 12, 2022, the Delaware Court of Chancery consolidated these two actions under the caption In re Golden Nugget Online Gaming, Inc. Stockholders Litigation. At a mediation held on January 24, 2024, the parties reached an agreement in principle to settle the Delaware action, which was reflected in a written settlement agreement, dated March 1, 2024. On July 9, 2024, the Delaware Court entered its Order and Final Judgment approving the settlement and dismissing the action. The deadline to file an appeal is August 8, 2024. If no appeal is filed on or before that date, the Order and Final Judgment dismissing the action becomes final. The estimated loss was accrued as of December 31, 2023 in the accounts payable and accrued expenses line-item on the consolidated balance sheet.

The Company intends to vigorously defend the Nevada action. The Company cannot predict with any degree of certainty the outcome of the Nevada action or determine the extent of any potential liabilities. The Company also cannot provide an estimate of the possible loss or range of loss of the Nevada action. Any adverse outcome in the Nevada action could expose the Company to substantial damages or penalties that may have a material adverse impact on the Company's operations and cash flows.

Despite the potential for significant damages, the Company does not believe, based on currently available information, that the outcome of the Nevada action will have a material adverse effect on the Company's financial condition, although the outcome could be material to the Company's operating results for any particular period, depending, in part, upon the operating results for such period.

AG 18, LLC d/b/a/ Arrow Gaming

On August 19, 2021, AG 18, LLC d/b/a/ Arrow Gaming ("Arrow Gaming") filed a complaint against the Company in the United States District Court for the District of New Jersey alleging that the Company's DFS and Casino product offerings infringe four patents. On October 12, 2021, Arrow Gaming filed an amended complaint to add one additional patent. On December 20, 2021, Arrow Gaming filed a second amended complaint adding new allegations with respect to alleged willful infringement.

The Company intends to vigorously defend this case. In the event that a court ultimately determines that the Company is infringing the asserted patents, it may be subject to substantial damages, which may include treble damages and/or an injunction that could require the Company to modify certain features that we currently offer.

The Company cannot predict with any degree of certainty the outcome of the suit or determine the extent of any potential liability or damages. The Company also cannot provide an estimate of the possible loss or range of loss. Any adverse outcome in these matters could expose the Company to substantial damages or penalties that may have a material adverse impact on the Company's operations and cash flows.

Despite the potential for significant damages, the Company does not believe, based on currently available information, that the outcome of this proceeding will have a material adverse effect on the Company's financial condition, although the outcome could be material to the Company's operating results for any particular period, depending, in part, upon the operating results for such period.

Beteiro, LLC

On November 22, 2021, Beteiro, LLC filed a complaint against the Company in the United States District Court for the District of New Jersey alleging that the Company's Sportsbook and Casino product offerings infringe four patents.

The Company intends to vigorously defend this case. In the event that a court ultimately determines that the Company is infringing the asserted patents, it may be subject to substantial damages, which may include treble damages and/or an injunction that could require the Company to modify certain features that we currently offer.

The Company cannot predict with any degree of certainty the outcome of the suit or determine the extent of any potential liability or damages. The Company also cannot provide an estimate of the possible loss or range of loss. Any adverse outcome in these matters could expose the Company to substantial damages or penalties that may have a material adverse impact on the Company's operations and cash flows.

Despite the potential for significant damages, the Company does not believe, based on currently available information, that the outcome of this proceeding will have a material adverse effect on the Company's financial condition, although the outcome could be material to the Company's operating results for any particular period, depending, in part, upon the operating results for such period.

Diogenes Ltd. & Colossus (IOM) Ltd.

On December 1, 2021, Diogenes Ltd. & Colossus (IOM) Ltd. ("Colossus"), filed a complaint against the Company in the United States District Court for the District of Delaware alleging that the Company's Sportsbook product offering infringes seven patents. Colossus amended its complaint on February 7, 2022 to, among other things, add one additional patent.

The Company intends to vigorously defend this case. In the event that a court ultimately determines that the Company is infringing the asserted patents, it may be subject to substantial damages, which may include treble damages and/or an injunction that could require the Company to modify certain features that we currently offer.

The Company cannot predict with any degree of certainty the outcome of the suit or determine the extent of any potential liability or damages. The Company also cannot provide an estimate of the possible loss or range of loss. Any adverse outcome in these matters could expose the Company to substantial damages or penalties that may have a material adverse impact on the Company's operations and cash flows.

Despite the potential for significant damages, the Company does not believe, based on currently available information, that the outcome of this proceeding will have a material adverse effect on the Company's financial condition, although the outcome could be material to the Company's operating results for any particular period, depending, in part, upon the operating results for such period.

Steiner

Nelson Steiner filed suit against the Company and FanDuel Inc. in Florida state court on November 9, 2015. The action was subsequently transferred to In Re: Daily Fantasy Sports Litigation (Multi-District Litigation) (the "MDL"), and Mr. Steiner's action was consolidated into the MDL's amended complaint, which, in February 2016, consolidated numerous actions (primarily purported class actions) filed against the Company, FanDuel, and other related parties in courts across the United States. By June 23, 2022, the MDL was resolved, except for Mr. Steiner's action, and the court officially closed the MDL docket on July 8, 2022.

Mr. Steiner brings this action as a concerned citizen of the state of Florida alleging that, among other things, defendants' daily fantasy sports contests are illegal gambling under the state laws of Florida and seeks disgorgement of "gambling losses" purportedly suffered by Florida citizens on behalf of the state. On June 23, 2022, the MDL court remanded Mr. Steiner's action to the Circuit Court for Pinellas County, Florida. Plaintiff has not yet filed an amended pleading.

The Company intends to vigorously defend this suit. Any adverse outcome in this matter could be subject the Company to substantial damages and it could be restricted from offering DFS contests in Florida. The Company cannot provide any assurance as to the outcome of this matter.

The Company cannot predict with any degree of certainty the outcome of the suit or determine the extent of any potential liability or damages. The Company also cannot provide an estimate of the possible loss or range of loss. Any adverse outcome in these matters could expose the Company to substantial damages or penalties that may have a material adverse impact on the Company's operations and cash flows.

Despite the potential for significant damages, the Company does not believe, based on currently available information, that the outcome of this matter will have a material adverse effect on Company's financial condition, although the outcome could be material to the Company's operating results for any particular period, depending, in part, upon the operating results for such period.

Turley

On January 9, 2023, Simpson G. Turley, individually and on behalf of all others similarly situated, filed a purported class action against the Company in the United States District Court for the District of Massachusetts. Plaintiff alleges, among other things, that he was a contestant in the Company's daily fantasy showdown contest for the January 2, 2023, NFL game between the Cincinnati Bengals and the Buffalo Bills (the "Bengals-Bills Game"). The Bengals-Bills Game was postponed and eventually cancelled due to Damar Hamlin collapsing during the game. Plaintiff alleges that he was winning prizes in multiple showdown contests at the point in time that the Bengals-Bills Game was cancelled (with 5:58 remaining in the first quarter). Plaintiff alleges that, instead of paying out the prize money, the Company refunded entry fees to contestants that entered showdown or flash draft fantasy contests. On May 8, 2023, plaintiff Turley and a new plaintiff (Erik Ramos) filed a First Amended Class Action Complaint. The plaintiffs assert claims for breach of contract, unfair and deceptive acts and practices, false advertising, and unjust enrichment. Among other things, plaintiffs seek statutory damages, monetary damages, punitive damages, attorney fees and interest. On March 29, 2024, the court granted DraftKings' motion to dismiss plaintiffs' complaint with prejudice.

Securities Matters Arising From DraftKings Marketplace and Related Matters

On March 9, 2023, a putative class action was filed in Massachusetts federal court by alleged purchasers of non-fungible tokens ("NFTs") on the DraftKings Marketplace ("DK Marketplace"). The complaint asserts claims for violations of federal and state securities laws against the Company and three of its officers on the grounds that, among other things, the NFTs that are sold and traded on the DK Marketplace allegedly constitute securities that were not registered with the SEC in accordance with federal and Massachusetts law, and that the DK Marketplace is a securities exchange that is not registered in accordance with federal and Massachusetts law. Based on these allegations, plaintiff brings claims seeking rescissory damages and other relief on behalf of himself and a putative class of persons who purchased NFTs on the DK Marketplace between August 11, 2021 and the present. The Company intends to vigorously defend this matter.

Beginning in July 2023, the Company received a subpoena from the Securities Division of the Office of the Secretary of the Commonwealth of Massachusetts and the United States Securities and Exchange Commission seeking documents and/or requesting answers to interrogatories concerning, among other things, DK Marketplace NFTs that are sold on DK Marketplace, the blockchain on which the NFTs were minted and digital assets and validator nodes associated with that blockchain, and related matters. We intend to comply with these requests.

The Company cannot predict with any degree of certainty the outcome of these matters or determine the extent of any potential liability or damages. The Company also cannot provide an estimate of the possible loss or range of loss. Any adverse outcome in these matters could expose the Company to substantial damages, penalties and/or require alterations to the Company's business that may have a material adverse impact on the Company's operations and cash flows.

Despite the potential for significant damages, the Company does not believe, based on currently available information, that the outcome of these matters will have a material adverse effect on Company's financial condition, although the outcome could be material to the Company's operating results for any particular period, depending, in part, upon the operating results for such period.

Shareholder Derivative Litigation Related to DraftKings Marketplace

On May 31, 2023, a putative shareholder derivative action was filed in Nevada state court by an alleged shareholder of the Company. The action asserts claims on behalf of the Company against certain senior officers and members of the Board of Directors of the Company for breach of fiduciary duty and unjust enrichment based primarily on allegations that the defendants caused or allowed the Company to disseminate misleading and inaccurate information to its shareholders in connection with NFTs that are sold and traded on the DK Marketplace. The action also alleges that certain individuals are liable for trading in Company stock at artificially inflated prices. The action seeks unspecified compensatory damages, changes to corporate governance and internal procedures, restitution, disgorgement, costs and attorney's fees, and other unspecified relief.

The Company cannot predict with any degree of certainty the outcome of this matter or determine the extent of any potential liabilities. The Company also cannot provide an estimate of the possible loss or range of loss. Because this action alleges claims on behalf of the Company and purports to seek a judgment in favor of the Company, the Company does not believe, based on currently available information, that the outcome of the proceedings will have a material adverse effect on the Company's financial condition, although the outcome could be material to the Company's operating results for any particular period, depending, in part, upon the operating results for such period.

Scanlon

On December 8, 2023, plaintiffs Melissa Scanlon and Shane Harris, individually and on behalf of others similarly situated, filed a purported class action lawsuit against DraftKings in Middlesex County Superior Court of Massachusetts. On March 26, 2024, the case was transferred to the Business Litigation Session of the Massachusetts Superior Court. Among other things, Plaintiffs allege that the Company's promotion that offered new customers an opportunity to earn up to 1,000 in site credits, and related advertisements, were: (1) unfair or deceptive practices in violation of Massachusetts General Laws ("M.G.L.") c. 93A, §§ 2, 9; and (2) untrue and misleading advertising in violation of M.G.L. c. 266, § 91. The Plaintiffs are seeking, among other things, injunctive relief, actual damages, double or treble damages, and attorneys' fees.

The Company intends to vigorously defend this case. Any adverse outcome in this matter could subject the Company to substantial damages and/or require alterations to the Company's business. The Company cannot provide any assurance as to the outcome of this matter.

The Company cannot predict with any degree of certainty the outcome of the suit or determine the extent of any potential liability or damages. The Company also cannot provide an estimate of the possible loss or range of loss. Any adverse outcome

in this matter could expose the Company to substantial damages or penalties that may have a material adverse impact on the Company's operations and cash flows.

Despite the potential for significant damages, the Company does not believe, based on currently available information, that the outcome of this matter will have a material adverse effect on Company's financial condition, although the outcome could be material to the Company's operating results for any particular period, depending, in part, upon the operating results for such period.

Guery

On April 17, 2024, plaintiff Samantha Guery, individually and on behalf of all others similarly situated, filed a purported class action lawsuit against DraftKings in the United States District Court for the Southern District of New York. Among other things, Plaintiff alleges that the Company's promotion that offered new customers an opportunity to place their first wager "risk free" was (1) "deceptive, unlawful, fraudulent, and unfair" in violation of New York General Business Law Section 349; and (2) false advertising under New York General Business Law Section 350. The plaintiffs are seeking, among other things, injunctive relief, actual damages, punitive damages, treble damages, and attorneys' fees.

The Company intends to vigorously defend this case. Any adverse outcome in this matter could subject the Company to substantial damages and/or require alterations to the Company's business. The Company cannot provide any assurance as to the outcome of this matter.

The Company cannot predict with any degree of certainty the outcome of the suit or determine the extent of any potential liability or damages. The Company also cannot provide an estimate of the possible loss or range of loss. Any adverse outcome in this matter could expose the Company to substantial damages or penalties that may have a material adverse impact on the Company's operations and cash flows.

Despite the potential for significant damages, the Company does not believe, based on currently available information, that the outcome of this matter will have a material adverse effect on Company's financial condition, although the outcome could be material to the Company's operating results for any particular period, depending, in part, upon the operating results for such period.

McAfee

On June 10, 2024, Plaintiff Matthew McAfee, individually and on behalf of all others similarly situated, filed a purported class action lawsuit against DraftKings in the Hamilton County Superior Court, State of Indiana. Among other things, Plaintiff alleges that those customers who had winning bets placed and accepted on the October 24, 2023 Lakers versus Nuggets basketball game that were subsequently canceled by DraftKings for obvious error were not timely canceled and should have been paid. Plaintiff brings claims for: (1) Indiana Deceptive Consumer Sales Act – Incurable Deceptive Act; (2) Indiana Deceptive Consumer Sales Act – Uncured Deceptive Act; and (3) breach of contract. Plaintiff seeks, among other things, actual and statutory damages, treble and exemplary damages, interest, and attorney fees and costs.

The Company intends to vigorously defend this case. Any adverse outcome in this matter could subject the Company to substantial damages and/or require alterations to the Company's business. The Company cannot provide any assurance as to the outcome of this matter.

The Company cannot predict with any degree of certainty the outcome of the suit or determine the extent of any potential liability or damages. The Company also cannot provide an estimate of the possible loss or range of loss. Any adverse outcome in this matter could expose the Company to substantial damages or penalties that may have a material adverse impact on the Company's operations and cash flows.

Despite the potential for significant damages, the Company does not believe, based on currently available information, that the outcome of this matter will have a material adverse effect on Company's financial condition, although the outcome could be material to the Company's operating results for any particular period, depending, in part, upon the operating results for such period.

Internal Revenue Service

The Company is currently under Internal Revenue Service audit for prior tax years, with the primary unresolved issues relating to excise taxation of fantasy sports contests and informational reporting and withholding. The final resolution of that audit, and other audits or litigation, may differ from the amounts recorded in these consolidated financial statements and may materially affect the Company's consolidated financial statements in the period or periods in which that determination is made.

13. Subsequent Events

Stock Repurchase Authorization

On July 30, 2024, the Company's Board of Directors authorized the repurchase of an aggregate of up to $1.0 billion of DraftKings Inc.'s Class A common stock (the "Stock Repurchase Program"). DraftKings may make repurchases of its Class A common stock through open market purchases, privately negotiated transactions or other transactions in accordance with applicable securities laws, subject to market conditions and other factors. The Company's Stock Repurchase Program does not require it to acquire any specific number or amount of Class A common stock and may be terminated at any time. The Company may enter into Rule 10b5-1 plans from time to time to facilitate repurchases of its Class A common stock in connection with its Stock Repurchase Program.

Discontinuance of Reignmakers and NFT Marketplace

Effective July 30, 2024, the Company discontinued Reignmakers and our NFT Marketplace. The Company is not yet able to reliably estimate the financial impact of the discontinuation. The Company does not believe, based on currently available information, that the discontinuation of Reignmakers and our NFT Marketplace will have a material adverse effect on the Company's financial condition, although the outcome could be material to the Company's operating results for any particular period, depending, in part, upon the operating results for such period.

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

The following discussion and analysis should be read in conjunction with our financial statements and related notes included elsewhere in this Quarterly Report on Form 10-Q (this "Report") and the section entitled "Risk Factors" in our Annual Report on Form 10-K for the fiscal year ended December 31, 2023, as filed with the SEC on February 16, 2024 (the "2023 Annual Report").

Cautionary Statement Regarding Forward-Looking Statements

This Report contains forward-looking statements within the meaning of the "safe harbor" provisions of the Private Securities Litigation Reform Act of 1995 that reflect future plans, estimates, beliefs and expected performance. The forward-looking statements depend upon events, risks and uncertainties that may be outside of our control. The words "anticipate," "believe," "continue," "could," "estimate," "expect," "intends," "may," "might," "plan," "possible," "potential," "predict," "project," "should," "will," "would," "forecast," "propose," and similar expressions or the negative of these words may identify forward-looking statements, but the absence of these words does not mean that a statement is not forward-looking. Our historical results are not necessarily indicative of the results that may be expected for any events in the future as our business and operations are subject to a variety of risks and uncertainties, many of which are beyond our control, and, consequently, our actual results may differ materially from those projected.

Factors that could cause or contribute to such differences include, but are not limited to, those identified below and those discussed in the section entitled "Risk Factors" included elsewhere in this Report. Any statements contained herein that are not statements of historical fact may be forward-looking statements, such as:

- factors relating to our business, operations and financial performance, including:
  - our ability to effectively compete in the global entertainment and gaming industries;
  - our ability to successfully acquire and integrate new operations;
  - our ability to obtain and maintain licenses with gaming authorities;
  - our inability to recognize deferred tax assets and tax loss carryforwards;
- market and global conditions and economic factors beyond our control, as well as the potential impact of general economic conditions, including inflation and rising interest rates, on our liquidity, operations and personnel;
- significant competition and competitive pressures from other companies worldwide in the industries in which we operate;
- our ability to raise financing in the future;
- the timing, amount or duration of our Stock Repurchase Program;
- our success in retaining or recruiting officers, key employees or directors; and
- litigation and the ability to adequately protect our intellectual property rights.

In addition to these risks, other factors that could cause or contribute to such differences include those set forth under the caption "Risk Factors" in our 2023 Annual Report. Due to the uncertain nature of these factors, management cannot assess the impact of each factor on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements.

Any forward-looking statement speaks only as of the date on which such statement is made, and we undertake no obligation to update any of these statements to reflect events or circumstances occurring after the date of this Report, except as required by applicable law. New factors may emerge, and it is not possible to predict all factors that may affect our business and prospects.

Our Business

We are a digital sports entertainment and gaming company that provides users with online sports betting ("Sportsbook"), online casino ("iGaming") and daily fantasy sports ("DFS") product offerings, as well as retail sportsbook, media, digital lottery and other consumer product offerings. We are also involved in the design and development of sports betting and casino gaming software for online and retail sportsbooks and iGaming operators.

Our mission is to make life more exciting by responsibly creating the world's favorite real-money games and betting experiences. We accomplish this by creating an environment where our users can find enjoyment and fulfillment through Sportsbook, iGaming and DFS, as well as media, digital lottery and other online consumer product offerings. We are also highly focused on our responsibility as a steward of this new era in real-money gaming. Our ethics guide our decision making, with respect to both the tradition and integrity of sports and our investments in regulatory compliance and consumer protection.

We continue to make deliberate and substantial investments in support of our mission and long-term growth. For example, we have invested in our product offerings and technology in order to continuously launch new product innovations; improve marketing, merchandising, and operational efficiency through data science; and deliver a great user experience. We also make significant investments in sales and marketing and incentives to grow and retain our paid user base, including personalized cross-product offers and promotions, and promote brand awareness to attract the "skin-in-the-game" sports fan. Together, these investments have enabled us to create a leading product built on scalable technology, while attracting a user base that has resulted in the rapid growth of our business.

Our priorities are to (a) continue to invest in our product offerings, (b) launch our product offerings in new jurisdictions, (c) create replicable and predictable jurisdiction-level unit economics in sports betting and iGaming and (d) expand our other online consumer product offerings. When we launch our Sportsbook and iGaming product offerings in a new jurisdiction, we invest heavily in user acquisition, retention and cross-selling until the new jurisdiction provides a critical mass of users engaged across our product offerings.

Our current technology is highly scalable with relatively minimal incremental spend required to launch our product offerings in new jurisdictions. We will continue to manage our fixed-cost base in conjunction with our market entry plans and focus our variable spend on marketing, user experience and support and regulatory compliance to become the product of choice for users and to maintain favorable relationships with regulators. We also expect to improve our profitability over time as our revenue and gross profit expand as jurisdictions mature, and our variable marketing expenses and fixed costs stabilize or grow at a slower rate.

We are continuing to increase our profits by utilizing the efficient customer acquisition that is enabled by the transition from local to regional to national advertising, maintaining strong customer retention, improving monetization from increased frequency of customer play and higher hold percentage, as well as scale benefits from investments in our product offerings and technology and general and administrative functions. In any given period, we expect to achieve profitability on a consolidated Adjusted EBITDA basis when total contribution profit exceeds the fixed costs of our business, which depends, in part, on the percentage of the U.S. adult population that has access to our product offerings and the other factors summarized in the section entitled "Cautionary Statement Regarding Forward-Looking Statements".

Financial Highlights and Trends

The following table sets forth a summary of our financial results for the periods indicated:

	Three months ended June 30,		Six months ended June 30,	
(amounts in thousands)	2024	2023	2024	2023
Revenue	$ 1,104,441	$ 874,927	$ 2,279,437	$ 1,644,579
Net Income (Loss)	63,822	(77,270)	(78,746)	(474,418)
Adjusted EBITDA [(1)]	127,967	72,972	150,357	(148,639)

(1) Adjusted EBITDA is a non-GAAP financial measure. See "Non-GAAP Information" below for additional information about this measure and a reconciliation of this measure to the most directly comparable financial measure calculated in accordance with U.S. GAAP.

Revenue increased by $229.5 million and $634.9 million in the three and six months ended June 30, 2024 compared to the three and six months ended June 30, 2023, respectively, primarily due to continued healthy customer engagement, efficient

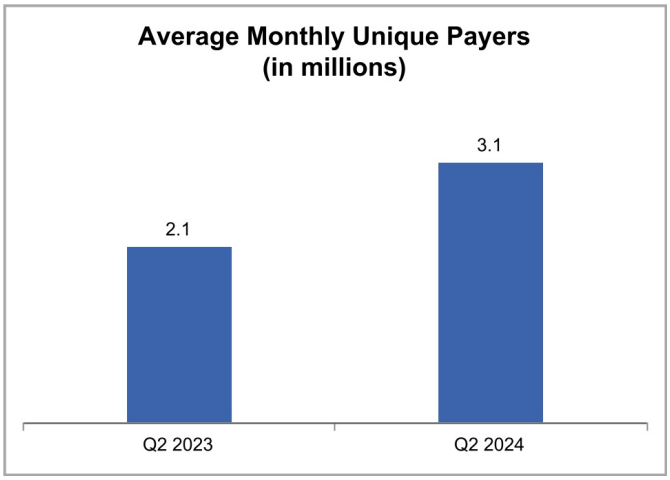
acquisition of new customers, the expansion of the Company's Sportsbook product offering into new jurisdictions, a higher structural sportsbook hold percentage, and the impact of our acquisition of Jackpocket Inc. ("Jackpocket"), which was completed on May 22, 2024.

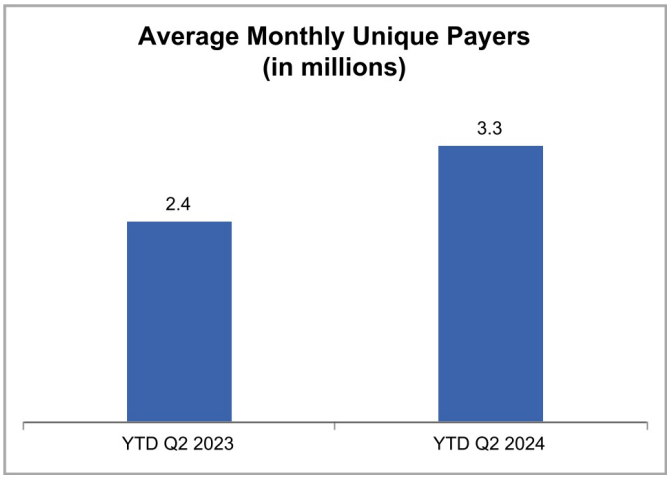
Key Performance Indicators

Monthly Unique Payers ("MUPs"). We define MUPs as the number of unique paid users per month who had one or more real-money, paid engagements across one or more of our Sportsbook, iGaming, DFS, digital lottery or Marketplace product offerings via our technology. For reported periods longer than one month, we average the MUPs for the months in the reported period. Although the number of unique paid users includes those users that have participated in a real-money, paid engagement using only promotional incentives (which has not been a material number of users to date), which are fungible with other funds deposited into their wallets on our technology, it does not include users who have made a deposit but have not yet had a real-money, paid engagement.

MUPs is a key indicator of the scale of our online gaming user base and awareness of our brand. We believe that year-over-year growth in MUPs is also generally indicative of the long-term revenue growth potential of our online gaming product offerings, although MUPs in individual periods may be less indicative of our longer-term expectations. We expect the number of MUPs to grow as we attract, retain and re-engage users in new and existing jurisdictions and expand our product offerings to appeal to a wider audience.

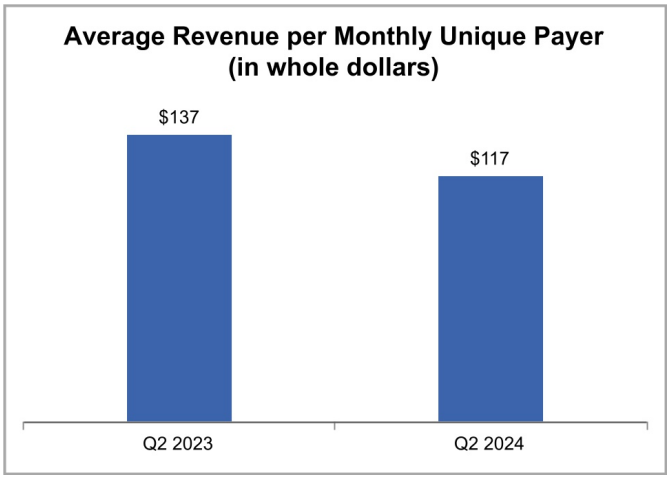
The charts below present our average MUPs for the three and six months ended June 30, 2023 and 2024:

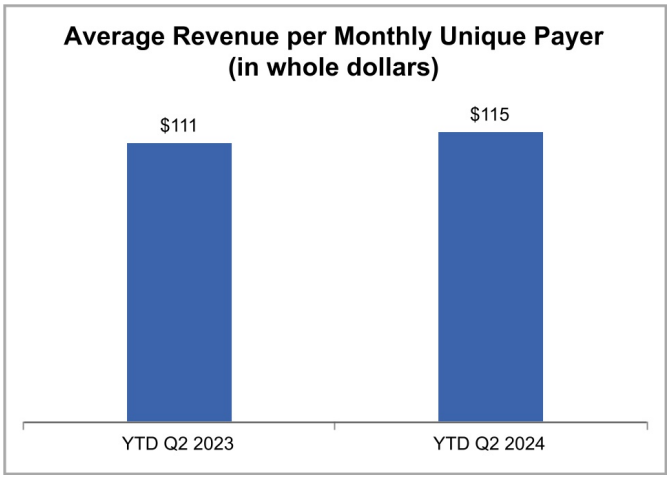



Average Monthly Unique Payers
(in millions)
2.4
3.3
YTD Q2 2023
YTD Q2 2024

Average Revenue per MUP ("ARPMUP"). We define and calculate ARPMUP as the average monthly revenue, excluding revenue from gaming software services, for a reporting period, divided by the average number of MUPs for the same period. ARPMUP is a key indicator of our ability to drive usage and monetization of our product offerings.

The charts below present our ARPMUP for the three and six months ended June 30, 2023 and 2024:





The increase in MUPs for the three and six months ended June 30, 2024, compared to the same periods in 2023, primarily reflects strong unique payer retention and acquisition across our Sportsbook and iGaming product offerings, as well as the expansion of our Sportsbook product offering into new states and the impact of our acquisition of Jackpocket (the "Jackpocket Transaction").

ARPMUP decreased in the three months ended June 30, 2024, compared to the same period in 2023, primarily due to lower ARPMUP for Jackpocket customers when compared to DraftKings' existing product offerings prior to the Jackpocket

Transaction, customer friendly sport outcomes, and an increase in new customer promotional investment for our Sportsbook and iGaming product offerings as a result of strong customer acquisition. ARPMUP increased in the six months ended June 30, 2024, compared to the same period in 2023 primarily due to structural improvement in our Sportsbook hold rate and improved promotional reinvestment for Sportsbook and iGaming, slightly offset by the lower ARPMUP for Jackpocket customers.

Non-GAAP Information

This Report includes Adjusted EBITDA, which is a non-GAAP financial measure that we use to supplement our results presented in accordance with U.S. GAAP. We believe Adjusted EBITDA is useful in evaluating our operating performance, similar to measures reported by our publicly-listed U.S. competitors, and regularly used by security analysts, institutional investors and other interested parties in analyzing operating performance and prospects. Adjusted EBITDA is not intended to be a substitute for any U.S. GAAP financial measure. As calculated, it may not be comparable to other similarly titled measures of performance of other companies in other industries or within the same industry.

We define and calculate Adjusted EBITDA as net income (loss) before the impact of interest income or expense (net), income tax provision or benefit, and depreciation and amortization, and further adjusted for the following items: stock-based compensation; transaction-related costs; litigation, settlement and related costs; advocacy and other related legal expenses; gain or loss on remeasurement of warrant liabilities; and other non-recurring and non-operating costs or income, as described in the reconciliation below.

We include non-GAAP financial measures because they are used by management to evaluate our core operating performance and trends and to make decisions regarding the allocation of capital and new investments. Adjusted EBITDA excludes certain expenses that are required in accordance with U.S. GAAP because they are non-recurring items (for example, in the case of transaction-related costs and advocacy and other related legal expenses), non-cash expenditures (for example, in the case of depreciation and amortization, remeasurement of warrant liabilities and stock-based compensation), or non-operating items which are not related to our underlying business performance (for example, in the case of interest income and expense and litigation, settlement and related costs).

Adjusted EBITDA

The table below presents our Adjusted EBITDA reconciled to our net income (loss), which is the most directly comparable financial measure calculated in accordance with U.S. GAAP, for the periods indicated:

	Three months ended June 30,		Six months ended June 30,	
(amounts in thousands)	**2024**	**2023**	**2024**	**2023**
Net income (loss)	$ 63,822	$ (77,270)	$ (78,746)	$ (474,418)
Adjusted for:				
Depreciation and amortization [1]	61,623	48,264	114,803	96,477
Interest (income) expense, net	(13,534)	(12,745)	(27,952)	(23,885)
Income tax (benefit) provision [2]	(73,570)	651	(73,921)	2,019
Stock-based compensation [3]	90,220	89,193	183,755	206,593
Transaction-related costs [4]	18,585	425	23,493	425
Litigation, settlement, and related costs [5]	10,804	4,136	20,124	6,699
Advocacy and other related legal expenses [6]	—	—	285	—
(Gain) loss on remeasurement of warrant liabilities	(9,791)	20,041	8,303	37,076
Other non-recurring costs and non-operating (income) costs [7]	(20,192)	277	(19,787)	375
Adjusted EBITDA	**$ 127,967**	**$ 72,972**	**$ 150,357**	**$ (148,639)**

(1) The amounts include the amortization of acquired intangible assets of $36.4 million and $28.9 million for the three months ended June 30, 2024 and 2023, respectively, and $65.7 million and $58.8 million for the six months ended June 30, 2024 and 2023, respectively.
(2) The Company recorded a discrete income tax benefit of $75.8 million during the second quarter of 2024 which was attributable to non-recurring partial releases of the Company's U.S. valuation allowance as a result of the purchase accounting for the Jackpocket Transaction.
(3) Reflects stock-based compensation expenses resulting from the issuance of awards under incentive plans.

(4) Includes capital markets advisory, consulting, accounting and legal expenses related to evaluation, negotiation and integration costs incurred in connection with transactions under consideration and pending or completed transactions and offerings, including costs relating to our acquisitions of Jackpocket and Sports IQ Analytics Inc. in 2024.
(5) Primarily includes external legal costs related to litigation and litigation settlement costs deemed unrelated to our core business operations.
(6) Reflects non-recurring and non-ordinary course costs relating to advocacy efforts and other legal expenses in jurisdictions where we do not operate certain product offerings and are actively seeking licensure, or similar approval, for those product offerings. This adjustment excludes (i) costs relating to advocacy efforts and other legal expenses in jurisdictions where we do not operate that are incurred in the ordinary course of business and (ii) costs relating to advocacy efforts and other legal expenses incurred in jurisdictions where related legislation has been passed and we currently operate.
(7) Primarily includes the change in fair value of certain financial assets, as well as our equity method share of investee's losses and other costs relating to non-recurring and non-operating items. For the three and six months ended June 30, 2024, this amount includes $20.9 million related to product tax credits as a result of audits and appeals related to prior periods.

Results of Operations

Three Months Ended June 30, 2024 Compared to the Three Months Ended June 30, 2023

The following table sets forth a summary of our consolidated results of operations for the interim periods indicated, and the changes between periods:

	Three months ended June 30,			
(amounts in thousands, except percentages)	2024	2023	$ Change	% Change
Revenue	**$ 1,104,441**	**$ 874,927**	**$ 229,514**	**26.2 %**
Cost of revenue	663,414	510,323	153,091	30.0 %
Sales and marketing	215,676	207,487	8,189	3.9 %
Product and technology	92,655	89,906	2,749	3.1 %
General and administrative	165,084	136,256	28,828	21.2 %
Loss from operations	**(32,388)**	**(69,045)**	**36,657**	**(53.1)%**
Interest income (expense), net	13,534	12,745	789	6.2 %
Gain (loss) on remeasurement of warrant liabilities	9,791	(20,041)	29,832	(148.9)%
Other (loss) gain, net	(446)	45	(491)	(1,091.1)%
Loss before income tax (benefit) provision and (income) loss from equity method investment	**(9,509)**	**(76,296)**	**66,787**	**(87.5)%**
Income tax (benefit) provision	(73,570)	651	(74,221)	(11,401.1)%
Loss (income) from equity method investment	239	323	(84)	(26.0)%
Net income (loss)	**$ 63,822**	**$ (77,270)**	**$ 141,092**	**(182.6)%**

Revenue. Revenue increased by $229.5 million, or 26.2%, to $1,104.4 million in the three months ended June 30, 2024, from $874.9 million in the three months ended June 30, 2023. The increase was primarily attributable to our online gaming revenues, which increased $237.5 million, or 27.9%, to $1,087.3 million in the three months ended June 30, 2024, from $849.8 million in the three months ended June 30, 2023, due to MUPs increasing by 50%, partially offset by ARPMUP decreasing by 15% as compared to the three months ended June 30, 2024. The increase in MUPs was due to strong player retention and acquisition across our Sportsbook and iGaming product offerings, the expansion of our Sportsbook product offering into new jurisdictions and the Jackpocket Transaction. The decrease in ARPMUP was due to lower ARPMUP for Jackpocket customers when compared to customers for DraftKings' existing product offerings prior to the Jackpocket Transaction, customer friendly sport outcomes, and an increase in new customer promotional investment for our Sportsbook and iGaming product offerings, partially offset by structural improvement in our Sportsbook hold percentage.

Cost of Revenue. Cost of revenue increased $153.1 million, or 30.0%, to $663.4 million in the three months ended June 30, 2024, from $510.3 million in the three months ended June 30, 2023. The increase was due, in part, to revenue growth from our expanded product and jurisdictional footprint, including the launch of our Sportsbook product offering in Ohio, Massachusetts, Kentucky and Maine throughout 2023, as well as in Vermont and North Carolina in 2024. In particular, the cost of revenue increase was primarily attributable to an increase in our variable expenses, such as product taxes and payment processing fees, which increased $85.5 million and $26.5 million, respectively. The remaining increase was primarily attributable to an increase

in our variable platform costs resulting from additional customer activity and an increase in amortization of intangible assets of $13.3 million.

Cost of revenue as a percentage of revenue increased by 1.8 percentage points to 60.1% in the three months ended June 30, 2024, as compared to 58.3% in the three months ended June 30, 2023, reflecting, in part, an increase in promotional reinvestment for our Sportsbook and iGaming product offerings and increased amortization.

Sales and Marketing. Sales and marketing expense increased $8.2 million, or 3.9%, to $215.7 million in the three months ended June 30, 2024, from $207.5 million in the three months ended June 30, 2023. The increase was partially attributable to higher advertising costs of $13.1 million.

Product and Technology. Product and technology expense increased $2.7 million, or 3.1%, to $92.7 million in the three months ended June 30, 2024, from $89.9 million in the three months ended June 30, 2023 due to increased headcount in our product and engineering departments.

General and Administrative. General and administrative expense increased $28.8 million, or 21.2%, to $165.1 million in the three months ended June 30, 2024, from $136.3 million in the three months ended June 30, 2023. This increase was primarily driven by an increase in transaction-related costs of $18.1 million and an increase in non-core litigation costs of $6.7 million.

Interest Income (Expense), net. We recorded net interest income of $13.5 million in the three months ended June 30, 2024, compared to $12.7 million in the three months ended June 30, 2023, due to fluctuations in cash balances and interest rates.

Gain (Loss) on Remeasurement of Warrant Liabilities. We recorded a gain on remeasurement of warrant liabilities of $9.8 million in the three months ended June 30, 2024, compared to a loss of $20.0 million in the three months ended June 30, 2023, due to changes in the underlying share price of our Class A common stock.

Other (Loss) Gain, net. We recorded a loss of $0.4 million in the three months ended June 30, 2024, as compared to a nominal gain in the three months ended June 30, 2023.

Net Income (Loss). Net income (loss) improved by $141.1 million to a net income of $63.8 million in the three months ended June 30, 2024, as compared to a net loss of $77.3 million in the three months ended June 30, 2023, for the reasons discussed above.

Six Months Ended June 30, 2024 Compared to the Six Months Ended June 30, 2023

The following table sets forth a summary of our consolidated results of operations for the interim periods indicated, and the changes between periods:

	Six months ended June 30,			
(amounts in thousands, except percentages)	2024	2023	$ Change	% Change
Revenue	**$ 2,279,437**	**$ 1,644,579**	**$ 634,858**	**38.6 %**
Cost of revenue	1,373,483	1,032,063	341,420	33.1 %
Sales and marketing	556,375	596,620	(40,245)	(6.7)%
Product and technology	181,470	177,994	3,476	2.0 %
General and administrative	339,335	296,732	42,603	14.4 %
Loss from operations	**(171,226)**	**(458,830)**	**287,604**	**(62.7)%**
Interest income (expense), net	27,952	23,885	4,067	17.0 %
Loss on remeasurement of warrant liabilities	(8,303)	(37,076)	28,773	(77.6)%
Other (loss) gain, net	(1,181)	64	(1,245)	(1,945.3)%
Loss before income tax (benefit) provision and (income) loss from equity method investment	**(152,758)**	**(471,957)**	**319,199**	**(67.6)%**
Income tax (benefit) provision	(73,921)	2,019	(75,940)	(3,761.3)%
(Income) loss from equity method investment	(91)	442	(533)	(120.6)%
Net income (loss)	**$ (78,746)**	**$ (474,418)**	**$ 395,672**	**(83.4)%**

Revenue. Revenue increased by $634.9 million, or 38.6%, to $2,279.4 million in the six months ended June 30, 2024, from $1,644.6 million in the six months ended June 30, 2023. The increase was primarily attributable to our online gaming revenues, which increased $654.5 million, or 41.3%, to $2,239.5 million in the six months ended June 30, 2024, from $1,585.0 million in the six months ended June 30, 2023, due to MUPs increasing by 34.5% and ARPMUP increasing by 3.7% as compared to the six months ended June 30, 2023. The increase in MUPs was due to strong player retention and acquisition across our Sportsbook and iGaming product offerings, as well as the expansion of our Sportsbook product offering into new jurisdictions. The increase in ARPMUP was due to structural improvement in our Sportsbook hold percentage and improved promotional reinvestment for our Sportsbook and iGaming product offering.

Cost of Revenue. Cost of revenue increased $341.4 million, or 33.1%, to $1,373.5 million in the six months ended June 30, 2024, from $1,032.1 million in the six months ended June 30, 2023. This increase was in part due to revenue growth from our expanded product and jurisdictional footprint, including the partial period impacts of the launch of our Sportsbook product offering in Massachusetts, Kentucky, and Maine throughout 2023, as well as in Vermont and North Carolina in 2024. In particular, the cost of revenue increase was primarily attributable to an increase in our variable expenses, such as product taxes and payment processing fees, which increased $210.1 million and $52.1 million, respectively. The remaining increase was primarily attributable to an increase in our variable platform costs resulting from additional customer activity.

Cost of revenue as a percentage of revenue decreased by 2.5 percentage points to 60.3% in the six months ended June 30, 2024, as compared to 62.8% in the six months ended June 30, 2023, reflecting, in part, structural improvement in our Sportsbook hold rate and improved promotional reinvestment for our Sportsbook and iGaming product offerings, partially offset by a change in revenue mix from our more mature DFS product offering to our Sportsbook and iGaming product offerings, which, in general, produce revenue at a higher cost per revenue dollar relative to our more mature DFS product offering.

Sales and Marketing. Sales and marketing expense decreased $40.2 million, or 6.7%, to $556.4 million in the six months ended June 30, 2024, from $596.6 million in the six months ended June 30, 2023. The decrease was partially attributable to lower advertising costs of $9.4 million, as well as reduced stock-based compensation expense of $6.5 million.

Product and Technology. Product and technology expense increased $3.5 million, or 2.0%, to $181.5 million in the six months ended June 30, 2024, from $178.0 million in the six months ended June 30, 2023 due to increased headcount in our product and engineering departments.

General and Administrative. General and administrative expense increased $42.6 million, or 14.4%, to $339.3 million in the six months ended June 30, 2024, from $296.7 million in the six months ended June 30, 2023. This increase was primarily driven by an increase in transaction-related costs of $23.0 million and an increase in non-core litigation costs of $13.4 million partially offset by a decrease in stock-based compensation expense of $4.4 million.

Interest Income (Expense), net. We recorded net income interest of $28.0 million in the six months ended June 30, 2024, compared to $23.9 million in the six months ended June 30, 2023, due to fluctuations in cash balances and interest rates.

Loss on Remeasurement of Warrant Liabilities. We recorded a loss on remeasurement of warrant liabilities of $8.3 million in the six months ended June 30, 2024, compared to a loss of $37.1 million in the six months ended June 30, 2023, due to changes in the underlying share price of our Class A common stock.

Other (Loss) Gain, net. We recorded a loss of $1.2 million in the six months ended June 30, 2024, as compared to a gain of 0.1 million in the six months ended June 30, 2023.

Net Income (Loss). Net income (loss) improved by $395.7 million to a net loss of $78.7 million in the six months ended June 30, 2024, as compared to a net loss of $474.4 million in the six months ended June 30, 2023, for the reasons discussed above.

Liquidity and Capital Resources

We had $815.9 million in cash and cash equivalents as of June 30, 2024 (excluding restricted cash and cash reserved for users, which we segregate on behalf of our paid users for all jurisdictions and product offerings). We believe our cash on hand is sufficient to meet our current working capital and capital expenditure requirements for a period of at least twelve months. We will continue to evaluate our long-term operating performance and cash needs and believe we are well positioned to continue to fund the operations of our business long-term.

Debt. In March 2021, we issued zero-coupon convertible senior notes in an aggregate principal amount of $1,265.0 million (the "Convertible Notes"). The Convertible Notes mature on March 15, 2028, subject to earlier conversion, redemption or repurchase. In connection with the pricing of the Convertible Notes and the exercise of the option to purchase additional Convertible Notes, we entered into privately negotiated capped call transactions (the "Capped Call Transactions"). The Capped Call Transactions are expected generally to reduce potential dilution to DraftKings Inc.'s Class A common stock upon any conversion of the Convertible Notes. The net cost of $124.0 million incurred to enter into the Capped Call Transactions was recorded as a reduction to additional paid-in capital on the Company's consolidated balance sheet. As of June 30, 2024, the Convertible Notes, net of issuance costs, balance was $1,255.1 million.

Leases. We have lease arrangements for certain corporate office facilities, data centers, and motor vehicles. As of June 30, 2024, the Company had lease obligations of $89.6 million, with $11.5 million payable within 12 months.

Other Purchase Obligations. We have certain non-cancelable contracts with vendors, licensors and others requiring us to make future cash payments. As of June 30, 2024, these purchase obligations were $1,235.8 million, with $249.8 million payable in the remainder of 2024.

Stock Repurchase Program. As noted above, on June 30, 2024, our Board of Directors authorized the repurchase of an aggregate of up to $1.0 billion of our Class A common stock through open market purchases, privately negotiated transactions or other transactions in accordance with applicable securities laws.

Cash Flows

The following table summarizes our cash flows for the periods indicated:

	Six months ended June 30,	
(amounts in thousands)	**2024**	**2023**
Net cash used in operating activities	$ (41,006)	$ (219,213)
Net cash used in investing activities	(456,534)	(26,952)
Net cash used in financing activities	(52,469)	(37,848)
Net decrease in cash and cash equivalents, restricted cash, and cash reserved for users	(550,009)	(284,013)
Cash and cash equivalents, restricted cash, and cash reserved for users at beginning of period	1,623,493	1,778,825
Cash and cash equivalents, restricted cash, and cash reserved for users at end of period	**$ 1,073,484**	**$ 1,494,812**

Operating Activities. Net cash used in operating activities in the six months ended June 30, 2024 decreased $178.2 million to $41.0 million, compared to $219.2 million in the six months ended June 30, 2023, mainly reflecting an improvement in net income (loss). Net income (loss), net of non-cash items, of $284.2 million, offset by changes in operating assets and liabilities.

Investing Activities. Net cash used in investing activities during the six months ended June 30, 2024 increased by $429.6 million to $456.5 million, compared to $27.0 million in the six months ended June 30, 2023, mainly reflecting an increase in cash paid for acquisitions, net of cash acquired of $392.0 million.

Financing Activities. Net cash used in financing activities during the six months ended June 30, 2024 increased by $14.6 million to $52.5 million, compared to $37.8 million in the six months ended June 30, 2023, primarily reflecting increased cost of purchasing treasury stock related to the satisfaction of withholding taxes due upon the vesting of restricted stock units.

Commitments and Contingencies

Refer to Note 12 of our unaudited condensed consolidated financial statements included elsewhere in this Report for a summary of our commitments as of June 30, 2024.

Critical Accounting Estimates

Our consolidated financial statements have been prepared in accordance with U.S. GAAP. Our discussion and analysis of the financial condition and results of operations are based on these financial statements. The preparation of these financial statements requires the application of accounting policies in addition to certain estimates and judgments by our management. Our estimates and judgments are based on currently available information, historical results and other assumptions we believe are reasonable. Actual results could differ materially from these estimates.

During the six months ended June 30, 2024, there were no changes to the critical accounting estimates discussed in the 2023 Annual Report.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

There have been no significant changes in our exposure to market risk during the six months ended June 30, 2024. Refer to Item 7A. Quantitative and Qualitative Disclosures about Market Risk in the 2023 Annual Report.

Item 4. Controls and Procedures.

Evaluation of Disclosure Controls and Procedures

Under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, we evaluated the effectiveness of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the "Exchange Act")) as of June 30, 2024. Based upon that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective as of the end of the period covered by this Report.

Changes in Internal Control Over Financial Reporting

There has been no change in our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) during our most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

Limitations on Effectiveness of Controls and Procedures

Our disclosure controls and procedures are designed to provide reasonable assurance of achieving their objectives, as specified above. Our management recognizes that any control system, no matter how well designed and operated, is based upon certain judgments and assumptions and cannot provide absolute assurance that its objectives will be met.

PART II. —OTHER INFORMATION

Item 1. Legal Proceedings.

We are involved in a number of legal proceedings (including those described below) concerning matters arising in connection with the conduct of our business activities. These proceedings are at varying stages, and many of these proceedings seek an indeterminate amount of damages. We regularly evaluate the status of the legal proceedings in which we are involved to assess whether a loss is probable or there is a reasonable possibility that a loss or an additional loss may have been incurred and to determine if accruals are appropriate. If accruals are not appropriate, we further evaluate each legal proceeding to assess whether an estimate of the possible loss or range of possible loss can be made.

For certain cases described on the following pages, management is unable to provide a meaningful estimate of the possible loss or range of possible loss because, among other reasons, (i) the proceedings are in various stages; (ii) damages have not been sought; (iii) damages are unsupported and/or exaggerated; (iv) there is uncertainty as to the outcome of pending appeals or motions; (v) there are significant factual issues to be resolved; and/or (vi) there are novel legal issues or unsettled legal theories to be presented or a large number of parties involved. For these cases, however, management does not believe, based on currently available information, that the outcomes of these proceedings will have a material adverse effect on our financial condition, though the outcomes could be material to our operating results for any particular period, depending, in part, upon the operating results for such period.

Attorney General of Texas

On January 19, 2016, the Texas Attorney General issued an opinion letter that "odds are favorable that a court would conclude that participation in paid daily fantasy sports leagues constitutes illegal gambling" under Texas law. In response to the opinion letter, we sued the Texas Attorney General on March 4, 2016 in Dallas County, Texas.

The lawsuit makes five claims: (1) a claim for a declaratory judgment that daily fantasy sports contests do not violate Texas law; (2) a claim of denial of due process under the Fifth and Fourteenth Amendments to the U.S. Constitution; (3) a claim of denial of due course of law under Article I of the Texas Constitution; (4) a claim of denial of equal protection under the Fourteenth Amendment to the U.S. Constitution; and (5) a claim of denial of equal rights under Article I of the Texas Constitution. We are also seeking reimbursement of our costs and attorneys' fees.

On May 2, 2016, the Texas Attorney General filed a motion to transfer venue to Travis County, Texas. On April 16, 2018, the parties filed a notice of agreed non-suit without prejudice, and we re-filed our lawsuit against the Texas Attorney General in Travis County. On April 17, 2018, the Dallas County court granted the parties' agreed non-suit without prejudice, thereby dismissing the Dallas County lawsuit without prejudice.

On May 24, 2018, the Texas Attorney General answered the complaint filed in Travis County, Texas.

FanDuel filed a petition in intervention on August 24, 2018, seeking essentially the same relief as the Company seeks. The Court entered an updated scheduling order setting the case for a non-jury trial on April 20, 2021. The parties subsequently filed an agreed motion to extend the scheduling order seeking, among other things, to change the non-jury trial date to January 27, 2026.

We intend to vigorously pursue our claims. In the event a court ultimately determines that daily fantasy sports contests violate Texas law, that determination could cause financial harm to us and loss of business in Texas.

We cannot predict with any degree of certainty the outcome of these matters or determine the extent of any potential liabilities.

We do not believe, based on currently available information, that the outcome of this proceeding will have a material adverse effect on our financial condition, although the outcome could be material to our operating results for any particular period, depending, in part, upon the operating results for such period.

Interactive Games LLC

On June 14, 2019, Interactive Games LLC ("IG") filed suit against us in the U.S. District Court for the District of Delaware. In the Complaint, IG alleges that our DFS product offering infringes two patents: U.S. Patent No. 8,956,231 (the

"231 Patent"), which is entitled "Multi-process communication regarding gaming information", and U.S. Patent No. 8,974,302 (the "302 Patent"), which is entitled "Multi-process communication regarding gaming information." That same Complaint alleges that our Sportsbook product offering infringes two additional patents: U.S. Patent No. 8,616,967 (the "967 Patent"), which is entitled "System and method for convenience gaming" and U.S. Patent No. 9,430,901 (the "901 Patent"), which is entitled "System and method for wireless gaming with location determination." All four of these patents are collectively referred to as the "IG Patents."

In response to the complaint, we filed a motion to dismiss the complaint under 35 U.S.C. Section 101, asserting the IG Patents are directed to non-patentable subject matter. The Court did not rule on that motion, as the judge previously stayed the District Court litigation pending resolution of the inter partes reviews and dismissed the motion to dismiss (without ruling on the merits), but granted leave to refile such motion with updated briefing if the stay is lifted.

On June 17, 2020, we filed petitions for inter partes review with the Patent Trial and Appeal Board (the "PTAB") challenging the validity of each of the IG Patents. The PTAB instituted review for the '901 Patent, the '231 Patent, and the '967 Patent but denied institution for the '302 Patent. On February 5, 2021, we filed a request for rehearing regarding the decision on the '302 Patent, which was denied by the PTAB on March 2, 2021. On October 13, 2021, the PTAB heard oral argument on the '901 Patent, the '231 Patent, and the '967 Patent. On January 4, 2022, the PTAB issued a final written decision finding all challenged claims of the '901 Patent, the '231 Patent, and the '967 Patent unpatentable. On March 8, 2022, IG appealed the final written decisions for all three instituted inter partes reviews. On April 19, 2022, IG moved to voluntarily dismiss the appeal for the inter partes review related to the '901 Patent, which was granted on April 20, 2022. On July 15, 2022, IG filed its opening briefs in the appeals of the inter partes reviews for the '231 Patent and '967 Patent. On October 5, 2022, we filed our responsive briefs in the appeals of the IPRs related to the '231 Patent and '967 Patent. On November 23, 2022, IG filed its reply briefs in the appeals of the IPRs related to the '231 Patent and '967 Patent. Oral argument for both appeals was held on June 7, 2023. On June 9, 2023, the Federal Circuit affirmed the PTAB's decisions for the IPRs related to both the '231 Patent and '967 Patent.

The '302 Patent was subject to an ex parte reexamination proceeding at the U.S. Patent and Trademark Office (U.S. Patent Application No. 90/015,151) (the "'302 Reexam"). On March 15, 2024 the PTO issued a notice of intent to issue a reexamination certificate for certain claims in the '302 Reexam. On April 12, 2024, the USPTO issued a reexamination certificate for the '302 Patent.

On April 9, 2024, IG dismissed the district court litigation without prejudice. On May 7, 2024, DraftKings filed a motion for attorneys' fees under 35 U.S.C. § 285. On June 11, 2024, IG filed its opposition to DraftKings' motion for attorneys' fees. On July 2, 2024, DraftKings filed its reply in support of its motion for attorneys' fees.

Winview Inc.

On July 7, 2021, Winview Inc., a Delaware corporation ("Winview") filed suit against the Company in the U.S. District Court for the District of New Jersey. In the complaint, Winview alleges that the Company infringes two patents: U.S. Patent No. 9,878,243 ("the '243 Patent"), entitled "Methodology for Equalizing Systemic Latencies in Television Reception in Connection with Games of Skill Played in Connection with Live Television Programming", and U.S. Patent No. 10,721,543 ("the '543 Patent"), entitled "Method of and System for Managing Client Resources and Assets for Activities on Computing Devices". The allegations based on the '243 Patent are directed to Sportsbook, and the allegations based on the '543 Patent are directed to both Sportsbook and DFS.

On July 28, 2021, Winview filed an amended complaint, in which it alleges that the Company infringes two additional patents: U.S. Patent No. 9,993,730 ("the '730 Patent"), entitled "Methodology for Equalizing Systemic Latencies in Television Reception in Connection with Games of Skill Played in Connection with Live Television Programming", and U.S. Patent No. 10,806,988 ("the '988 Patent"), entitled "Method Of and System For Conducting Multiple Contests of Skill with a Single Performance". The allegations based on the '730 Patent are directed at Sportsbook, and the allegations based on the '988 Patent are directed at DFS.

On October 4, 2021, we filed a motion to dismiss Winview's direct infringement claims for the '543 Patent and the '730 Patent, as well as its claims for willful, induced, and contributory infringement for all four asserted patents. On October 29, 2021, the parties filed a stipulation that allowed Winview to file a second amended complaint on or before November 15, 2021, which the court signed and ordered on November 1, 2021.

On November 15, 2021, Winview filed a second amended complaint (the "SAC"), adding as defendants DK Crown Holdings Inc. and Crown Gaming Inc., a Delaware corporation, which are wholly-owned subsidiaries of the Company. The

SAC, among other allegations, repeats the allegations of the first amended complaint that the defendants infringe the ’243 Patent, the ’543 Patent, the ’730 Patent, and the ’988 Patent. On December 15, 2021, the Company filed its motion to dismiss the SAC, again arguing that Winview failed to state a claim for direct infringement of the ’543 Patent and the ’730 Patent, and for willful, induced, and contributory infringement for all four asserted patents. Winview filed its memorandum in opposition to the motion to dismiss on January 24, 2022, and the Company filed its reply brief to Winview’s opposition on January 31, 2022.

On August 3, 2022, we filed a petition for inter partes review with the PTAB challenging the validity of the ‘243 Patent. On July 25, 2022, FanDuel filed petitions for inter partes review with the PTAB challenging the validity of the '543 and '730 Patents. On September 20, 2022, the court entered an order staying the pending motion to dismiss and staying all discovery pending final resolution of the petition for inter partes review through a final written decision. On January 31, 2023, the PTAB granted institution of the inter partes review, and it is expected to issue a final written decision by January 31, 2024. On February 15, 2023, the District Court administratively terminated the lawsuit pending the PTAB’s final written decision. On January 29, 2024, the PTAB issued final written decisions in the IPRs, finding unpatentable all challenged claims of the ’243, ’543, and ’730 Patents. On February 16, 2024, the parties jointly requested that the case remain administratively terminated until at least the expiration of the time period for WinView to file a notice of appeal (April 1, 2024). On February 20, 2024, the court granted the request.

On March 29, 2024, WinView filed a notice of appeal in the United States Court of Appeals for the Federal Circuit, challenging the PTAB’s final written decisions in the IPRs. On April 11, 2024, the parties jointly requested that the district court litigation remain administratively terminated until at least the Federal Circuit issues its mandate regarding WinView’s appeals. On April 15, 2024, the district court ordered the case to remain administratively terminated. On June 26, 2024, WinView and DraftKings filed a joint stipulation of voluntary dismissal of WinView’s appeal. On June 28, 2024, the United States Court of Appeals for the Federal Circuit ordered WinView’s appeal dismissed.

We intend to vigorously defend this case. In the event that a court ultimately determines that we are infringing the asserted patents, we may be subject to substantial damages, which may include treble damages and/or an injunction that could require us to modify certain features that we currently offer.

We cannot predict with any degree of certainty the outcome of this matter or determine the extent of any potential liabilities. We also cannot provide an estimate of the possible loss or range of loss. Any adverse outcome in this matter could expose the Company to substantial damages or penalties that may have a material adverse impact on the Company’s operations and cash flows.

Despite the potential for significant damages, we do not believe, based on currently available information, that the outcome of this proceeding will have a material adverse effect on our financial condition, although the outcome could be material to our operating results for any particular period, depending, in part, upon the operating results for such period.

Securities Matters Arising From the Hindenburg Report and Related Matters

Beginning on July 9, 2021, the Company received subpoenas from the SEC seeking documents concerning, among other things, allegations concerning SBTech that were contained in a report published about the Company on June 15, 2021 by Hindenburg Research, as well as the Company’s adherence to and disclosures regarding its compliance policies and procedures, and related matters. The Company intends to comply with the related requests and is cooperating with the SEC’s ongoing inquiry.

We cannot predict with any degree of certainty the outcome of the SEC matter or determine the extent of any potential liabilities. We also cannot provide an estimate of the possible loss or range of loss. Any adverse outcome in the SEC matter could expose the Company to substantial damages or penalties that may have a material adverse impact on the Company’s operations and cash flows.

Despite the potential for significant damages, we do not believe, based on currently available information, that the outcome of the SEC matter will have a material adverse effect on our financial condition, although the outcome could be material to our operating results for any particular period, depending, in part, upon the operating results for such period.

Matters Related to the GNOG Transaction

On August 12, 2022, a putative class action was filed in Nevada state District Court in Clark County against Golden Nugget Online Gaming, Inc. (“GNOG Inc.”), the Company and one of its officers and two affiliates, as well as former officers

or directors and the former controlling stockholder of GNOG Inc. and Jefferies LLC. The lawsuit asserts claims on behalf of a putative class of former minority stockholders of GNOG Inc. alleging that certain former officers and directors of GNOG Inc. and its former controlling stockholder (Tilman Fertitta and/or Fertitta Entertainment, Inc.) breached their fiduciary duties to minority stockholders of GNOG Inc. in connection with the GNOG Transaction, and the other defendants aided and abetted the alleged breaches of fiduciary duty. On November 1, 2022, defendants filed motions to dismiss the action on the procedural grounds of improper forum and lack of personal jurisdiction over certain defendants or, in the alternative, to stay the action pending resolution of parallel proceedings in the Delaware Court of Chancery. On May 24, 2023, the court (i) granted the motions to dismiss for improper forum with respect to GNOG Inc. and its former officers and directors other than Mr. Fertitta, as well as Jefferies LLC, (ii) denied the motions to dismiss for improper forum with respect to the Company and its officer and two affiliates, as well as Mr. Fertitta and Fertitta Entertainment, Inc., and (iii) granted the non-dismissed defendants' alternative request to stay the action for at least nine months pending resolution of parallel proceedings in the Delaware Court of Chancery. On June 29, 2023, the plaintiff filed a motion for reconsideration of the court's order insofar as it found certain claims subject to a Delaware forum requirement. On July 27, 2023, defendants filed oppositions to the plaintiff's motion for reconsideration, and certain defendants filed countermotions for certification of final judgment as to the claims that the court previously dismissed pursuant to its May 24, 2023 order. On October 1, 2023, the court entered an order (1) denying the motion for reconsideration and (2) granting the motion for certification of final judgment as to the defendants whose claims against them previously were dismissed. On January 18, 2024, the court entered a stipulated order extending the stay until resolution of the parallel proceedings in Delaware Chancery Court.

On September 9, 2022, two similar putative class actions were filed in the Delaware Court of Chancery against former directors of GNOG Inc. and its former controlling stockholder, one of which also names the Company and Jefferies Financial Group, Inc. as defendants. These pending actions in Delaware assert substantially similar claims on behalf of a putative class of former minority stockholders of GNOG Inc. alleging that certain former officers and directors of GNOG Inc. and its former controlling stockholder (Tilman Fertitta) breached their fiduciary duties to minority stockholders of GNOG Inc. in connection with the GNOG Transaction, and one of the actions also alleges that the Company and Jefferies Financial Group, Inc. aided and abetted the alleged breaches of fiduciary duty. On October 12, 2022, the Delaware Court of Chancery consolidated these two actions under the caption In re Golden Nugget Online Gaming, Inc. Stockholders Litigation. On October 29, 2022, the court appointed co-lead plaintiffs in the consolidated action. On November 3, 2022, co-lead plaintiffs designated an operative complaint in the consolidated action. On January 13, 2023, defendants filed a motion seeking dismissal of the action. On June 8, 2023, the court denied defendants' motion to dismiss. At a mediation held on January 24, 2024, the parties reached an agreement in principle to settle the Delaware action, which was reflected in a written settlement agreement, dated March 1, 2024. On July 9, 2024, the court entered its Order and Final Judgment approving the settlement and dismissing the action. The deadline to appeal is August 8, 2024. If no appeal is filed on or before that date, the Order and Final Judgment dismissing the action becomes final.

The Company intends to vigorously defend against the Nevada action. The Company cannot predict with any degree of certainty the outcome the Nevada action or determine the extent of any potential liabilities. The Company also cannot provide an estimate of the possible loss or range of loss of the Nevada action. Any adverse outcome in the Nevada action could expose the Company to substantial damages or penalties that may have a material adverse impact on the Company's operations and cash flows.

Despite the potential for significant damages, the Company does not believe, based on currently available information, that the outcome of the Nevada action will have a material adverse effect on the Company's financial condition, although the outcome could be material to the Company's operating results for any particular period, depending, in part, upon the operating results for such period.

AG 18, LLC d/b/a/ Arrow Gaming

On August 19, 2021, AG 18, LLC d/b/a/ Arrow Gaming ("Arrow Gaming") filed a complaint against the Company in the United States District Court for the District of New Jersey alleging that the Company's DFS and Casino product offerings infringe four patents. On October 12, 2021, Arrow Gaming filed an amended complaint to add one additional patent. The following U.S. Patents are asserted against one or both of the Company's DFS and Casino product offerings in the amended complaint: (1) U.S. Patent No. 9,613,498, entitled "Systems and Methods For Peer-to-Peer Gaming"; (2) U.S. Patent No. 9,978,205, entitled "Location Based Restrictions on Networked Gaming"; (3) U.S. Patent No. 10,497,220 entitled "Location Based Restrictions on Networked Gaming"; (4) U.S. Patent No. 10,614,657 entitled "Location Based Restrictions on Networked Gaming"; and (5) U.S. Patent No. 11,024,131 entitled "Location Based Restrictions on Networked Gaming" (collectively, the "Arrow Gaming Patents").

On November 9, 2021, we filed a motion to dismiss plaintiff's complaint. On November 10, 2021, we answered the complaint and filed counterclaims (the "Counterclaims"). In the Counterclaims we seek, among other things, a declaratory judgment that the Arrow Gaming Patents are invalid. On December 1, 2021, Arrow Gaming answered our Counterclaims. On December 20, 2021, Arrow Gaming filed a second amended complaint adding new allegations with respect to the alleged willful infringement.

On January 21, 2022, the Company filed a motion to dismiss plaintiff's second amended complaint. On February 22, 2022, plaintiff filed its opposition to the Company's motion to dismiss plaintiff's second amended complaint, and on March 25, 2022, the Company filed its reply thereto. On March 7, 2022, the Company filed a motion to disqualify plaintiff's counsel. On March 21, 2022, plaintiff filed its opposition to the Company's motion to disqualify plaintiff's counsel, and on March 28, 2022, the Company filed its reply thereto. On September 21, 2022, the Company's motion to dismiss was administratively terminated, pending the outcome of the disqualification motion. On October 4, 2022, the presiding Magistrate Judge denied the Company's motion to disqualify plaintiff's counsel. On October 21, 2022, the Company filed a renewed motion to dismiss plaintiff's complaint. On November 4, 2022, Arrow Gaming filed an opposition to the renewed motion to dismiss. On November 14, 2022, the Company filed its reply in support of the motion to dismiss. On November 4, 2022, the Company filed a motion to stay the case pending resolution of the below-referenced petitions for inter partes review. On November 23, 2022 Arrow Gaming filed an opposition to the motion to stay. On December 2, 2022, the Company filed a reply in support of the motion to stay.

Between August 22, 2022 and August 30, 2022, the Company filed petitions for inter partes review ("IPRs") with the PTAB challenging the validity of each of the Arrow Gaming Patents. On March 14, 2023, the PTAB granted institution of all IPRs. On March 12 and 13, 2024, the PTAB issued final written decisions in all pending IPRs finding all claims that were asserted in the litigation unpatentable. Only two claims were not found unpatentable: claim 18 of the '205 Patent and claim 11 of the '657 Patent. Neither of these claims were asserted in the litigation brought by Arrow Gaming.

On May 14, 2024, Arrow Gaming filed a Notice of Appeal of the IPR directed to the '498 Patent. On July 10, 2024, DraftKings filed a Notice of Appeal of the IPR directed to the '205 Patent challenging the PTAB's final written decision as to claim 18 of the '205 Patent.

On April 3, 2023, the District Court administratively terminated the lawsuit pending the PTAB's final written decisions. The parties have agreed to maintain the stay pending any appeals of the PTAB's final written decisions in the IPRs.

We intend to vigorously defend this case. In the event that a court ultimately determines that we are infringing the asserted patents, we may be subject to substantial damages, which may include treble damages and/or an injunction that could require us to modify certain features that we currently offer.

We cannot predict with any degree of certainty the outcome of this matter or determine the extent of any potential liabilities. We also cannot provide an estimate of the possible loss or range of loss. Any adverse outcome in this matter could expose the Company to substantial damages or penalties that may have a material adverse impact on the Company's operations and cash flows.

Despite the potential for significant damages, we do not believe, based on currently available information, that the outcome of this proceeding will have a material adverse effect on our financial condition, although the outcome could be material to our operating results for any particular period, depending, in part, upon the operating results for such period.

Beteiro, LLC

On November 22, 2021, Beteiro, LLC ("Beteiro") filed a complaint against the Company in the United States District Court for the District of New Jersey alleging that the Company's Sportsbook and Casino product offerings infringe four patents. The following U.S. Patents are asserted against the Company's Sportsbook and Casino products in the complaint: U.S. Patent No. 9,965,920, entitled "Apparatus and Method for Facilitating Gaming Activity and/or Gambling Activity"; U.S. Patent No. 10,043,341, entitled "Apparatus and Method for Facilitating Gaming Activity and/or Gambling Activity"; U.S. Patent No. 10,147,266, entitled "Apparatus and Method for Facilitating Gaming Activity and/or Gambling Activity"; and U.S. Patent No. 10,255,755, entitled "Apparatus and Method for Facilitating Gaming Activity and/or Gambling Activity" (collectively, the "Beteiro Patents").

The Company filed its motion to dismiss plaintiff's complaint on February 9, 2022. On April 7, 2022, Plaintiff filed its opposition to the Company's motion to dismiss, and on April 25, 2022, the Company filed its reply thereto. On September 7,

2022, the Company's motion to dismiss the complaint was granted. On September 22, 2022, Beteiro filed its notice to appeal the ruling on the motion to dismiss. On October 5, 2022, Beteiro filed a motion for reconsideration of the ruling on the motion to dismiss at the District Court, which was denied by the District Court on November 2, 2022. On March 9, 2023, Beteiro filed its opening appellate brief. DraftKings' responsive brief was filed on June 9, 2023. Beteiro's reply brief was filed on July 1, 2023. The Federal Circuit held oral argument on May 7, 2024. On June 21, 2024, the Federal Circuit affirmed the dismissal of Beteiro's complaint.

On October 28, 2022, the Company filed petitions for inter partes review with the PTAB challenging the validity of each of the Beteiro Patents. Between May 11, 2023 and May 12, 2023, the PTAB instituted review for all Beteiro Patents. On May 6, 2024, the PTAB entered final written decisions finding the challenged claims in the instituted IPRs not unpatentable. On July 8, 2024, DraftKings appealed the PTAB's findings. On July 25, 2024, Beteiro and DraftKings filed stipulated dismissals of those appeals, wherein Beteiro stipulated that: (1) it would not seek to further appeal the Federal Circuit's June 21, 2024 affirmance of the dismissal of Beteiro's complaint in the district court; and (2) it is precluded from asserting any other claims from the Beteiro Patents against DraftKings or any of DraftKings' subsidiaries or affiliates. This stipulation mooted the appeals of the PTAB's findings.

We intend to vigorously defend this case. In the event that a court ultimately determines that we are infringing the asserted patents, we may be subject to substantial damages, which may include treble damages and/or an injunction that could require us to modify certain features that we currently offer.

We cannot predict with any degree of certainty the outcome of this matter or determine the extent of any potential liabilities. We also cannot provide an estimate of the possible loss or range of loss. Any adverse outcome in this matter could expose the Company to substantial damages or penalties that may have a material adverse impact on the Company's operations and cash flows.

Despite the potential for significant damages, we do not believe, based on currently available information, that the outcome of this proceeding will have a material adverse effect on our financial condition, although the outcome could be material to our operating results for any particular period, depending, in part, upon the operating results for such period.

Diogenes Ltd. & Colossus (IOM) Ltd.

On December 1, 2021, Diogenes Ltd. & Colossus (IOM) Ltd. ("Colossus"), filed a complaint against the Company in the United States District Court for the District of Delaware alleging that the Company's Sportsbook product offering infringes seven of its patents. The following U.S. Patents, each entitled "Wagering apparatus, methods and systems", are asserted against the Company's Sportsbook product offering in the complaint: U.S. Patent No. 8,721,439 ("the '439 patent"); U.S. Patent No. 9,117,341 ("the '341 patent"); U.S. Patent No. 9,275,516 ("the '516 patent"); U.S. Patent No. 9,424,716 ("the '716 patent"); U.S. Patent No. 9,704,338 ("the '338 patent"); U.S. Patent No. 10,970,969 ("the '969 patent"); and U.S. Patent No. 10,997,822 ("the '822 patent").

On January 24, 2022, the Company filed its motion to dismiss the original complaint. On February 7, 2022, Colossus filed an amended complaint (the "Amended Complaint") to, among other things, assert one additional patent against the Company, U.S. Patent No. 11,200,779 ("the '779 patent"). The patents asserted by Colossus are collectively referred to as the "Colossus Patents."

The Company filed its motion to dismiss the Amended Complaint on February 22, 2022. On March 15, 2022, plaintiffs filed their opposition to the Company's motion to dismiss, and on March 29, 2022, the Company's filed its reply thereto. On March 25, 2022, a scheduling order was entered in which, among other things, trial was scheduled for January 13, 2025. On July 18, 2022, Magistrate Judge Burke issued a report and recommendation (the "Report and Recommendation") that the motion to dismiss be granted-in-part and denied-in-part. The Company and Colossus each filed their objections to the Report and Recommendation on August 1, 2022. On August 26, 2022, District Court Judge Noreika overruled both parties' respective objections and adopted the Report and Recommendation of Magistrate Judge Burke regarding the motion to dismiss. On December 27, 2022, the Company filed an Answer to the Amended Complaint, including certain affirmative defenses. On January 17, 2023, Colossus filed a motion to strike the affirmative defense of unenforceability from the Company's Answer. On February 7, 2023, the Company filed an Amended Answer and Counterclaims to the Amended Complaint, and also filed a response to Colossus' motion to strike. On February 28, 2023, Colossus filed another motion to strike DraftKings' inequitable conduct affirmative defense and counterclaim. DraftKings filed its responsive brief on March 28, 2023. Colossus filed its reply brief on April 11, 2023. Magistrate Judge Burke held a hearing on Colossus' motion on June 6, 2023 and subsequently issued a report and recommendation (the "Second Report and Recommendation") that the motion be denied in part and granted in part. Colossus filed objections to the Second Report and Recommendation on June 21, 2023, and DraftKings filed its response to

Colossus' objections on July 5, 2023. On August 2, 2023, Judge Noreika overruled Colossus' objections and adopted the Second Report and Recommendation.

Between November 29, 2022, and February 7, 2023, the Company filed petitions for inter partes review with the PTAB challenging the validity of the Colossus Patents. The PTAB granted institution of IPRs for each of the '341 patent, '969 patent, and the '822 patent. The PTAB denied institution of IPR for each of the '516 patent, '716 patent, '338 patent and the '779 patent. On September 11, 2023, the Company filed a request for Director review of the PTAB's decision not to institute review in the IPR for the '779 patent. On November 7, 2023, the Director of the U.S. Patent and Trademark Office delegated Director Review of the PTAB's institution decision in the IPR for the '779 Patent to the Delegated Review Panel ("DRP") to determine whether to grant rehearing. On February 21, 2024, the DRP issued a decision vacating the PTAB's denial of institution of the IPR directed to the '779 Patent and instructing the PTAB to reconsider institution. On May 15, 2024, the PTAB instituted the IPR directed to the '779 Patent.

On March 15, 2024, the parties entered into a partial settlement agreement, in which the parties agreed to, among other things: (1) dismissal with prejudice of the claims relating to the '439 patent; '341 patent; '516 patent; '716 patent; '338 patent; '969 patent; and the '822 patent; and (2) DraftKings' withdrawal of its IPRs with respect to the '341 Patent, the '969 Patent, and the '822 Patent. The dismissal and withdrawal both occurred on March 18, 2024. Only the '779 Patent remains pending in the district court litigation. The parties have stipulated to a stay of the district court litigation pending resolution of the IPR directed to the '779 Patent.

We intend to vigorously defend this case. In the event that a court ultimately determines that we are infringing the asserted patents, we may be subject to substantial damages, which may include treble damages and/or an injunction that could require us to modify certain features that we currently offer.

We cannot predict with any degree of certainty the outcome of this matter or determine the extent of any potential liabilities. We also cannot provide an estimate of the possible loss or range of loss. Any adverse outcome in this matter could expose the Company to substantial damages or penalties that may have a material adverse impact on the Company's operations and cash flows.

Despite the potential for significant damages, we do not believe, based on currently available information, that the outcome of this proceeding will have a material adverse effect on our financial condition, although the outcome could be material to our operating results for any particular period, depending, in part, upon the operating results for such period.

Steiner

Nelson Steiner filed suit against the Company and FanDuel Inc. in Florida state court on November 9, 2015. The action was subsequently transferred to In Re: Daily Fantasy Sports Litigation (Multi-District Litigation) (the "MDL"), and Mr. Steiner's action was consolidated into the MDL's amended complaint, which, in February 2016, consolidated numerous actions (primarily purported class actions) filed against the Company, FanDuel, and other related parties in courts across the United States. By June 23, 2022, the MDL was resolved, except for Mr. Steiner's action, and the court officially closed the MDL docket on July 8, 2022.

Mr. Steiner brings this action as a concerned citizen of the state of Florida alleging that, among other things, defendants' daily fantasy sports contests are illegal gambling under the state laws of Florida and seeks disgorgement of "gambling losses" purportedly suffered by Florida citizens on behalf of the state. On June 23, 2022, the MDL court remanded Mr. Steiner's action to the Circuit Court for Pinellas County, Florida. Plaintiff has not yet filed an amended pleading.

The Company intends to vigorously defend this suit. Any adverse outcome in this matter could subject the Company to substantial damages and it could be restricted from offering DFS contests in Florida. The Company cannot provide any assurance as to the outcome of this matter.

The Company cannot predict with any degree of certainty the outcome of the suit or determine the extent of any potential liability or damages. The Company also cannot provide an estimate of the possible loss or range of loss. Any adverse outcome in these matters could expose the Company to substantial damages or penalties that may have a material adverse impact on the Company's operations and cash flows.

Despite the potential for significant damages, the Company does not believe, based on currently available information, that the outcome of this matter will have a material adverse effect on Company's financial condition, although the outcome could be

material to the Company's operating results for any particular period, depending, in part, upon the operating results for such period.

Turley

On January 9, 2023, Simpson G. Turley, individually and on behalf of all others similarly situated, filed a purported class action against the Company in the United States District Court for the District of Massachusetts. Plaintiff alleges, among other things, that he was a contestant in the Company's daily fantasy showdown contest for the January 2, 2023, NFL game between the Cincinnati Bengals and the Buffalo Bills (the "Bengals-Bills Game"). The Bengals-Bills Game was postponed and eventually cancelled due to Damar Hamlin collapsing during the game. Plaintiff alleges that he was winning prizes in multiple showdown contests at the point in time that the Bengals-Bills Game was cancelled (with 5:58 remaining in the first quarter). Plaintiff alleges that, instead of paying out the prize money, the Company refunded entry fees to contestants that entered showdown or flash draft fantasy contests. On May 8, 2023, plaintiff Turley and a new plaintiff (Erik Ramos) filed a First Amended Class Action Complaint. The plaintiffs assert claims for breach of contract, unfair and deceptive acts and practices, false advertising, and unjust enrichment. Among other things, plaintiffs seek statutory damages, monetary damages, punitive damages, attorney fees and interest. On June 12, 2023, DraftKings filed a motion to dismiss the claims asserted by both plaintiffs or, in the alternative, strike the flash draft allegations. Plaintiffs filed an opposition on July 17, 2023. On August 3, 2023, Defendant filed its reply. On March 29, 2024, the court granted DraftKings' motion and dismissed plaintiffs' complaint with prejudice.

Securities Matters Arising From DraftKings Marketplace and Related Matters

On March 9, 2023, a putative class action was filed in Massachusetts federal court by an alleged purchaser of non-fungible tokens ("NFTs") on the DraftKings Marketplace ("DK Marketplace"). The complaint asserts claims for violations of federal and state securities laws against the Company and three of its officers on the grounds that, among other things, the NFTs that are sold and traded on the DK Marketplace allegedly constitute securities that were not registered with the SEC in accordance with federal and Massachusetts law, and that the DK Marketplace is a securities exchange that is not registered in accordance with federal and Massachusetts law. Based on these allegations, the plaintiff brings claims seeking rescissory damages and other relief on behalf of himself and a putative class of persons who purchased NFTs on the DK Marketplace between August 11, 2021 and the present. On June 27, 2023, the court entered an order authorizing the plaintiff to file an amended complaint by August 4, 2023. On September 25, 2023, defendants filed a motion seeking dismissal of this action. On November 10, 2023, plaintiff filed an opposition to the motion to dismiss. On December 11, 2023, defendants filed a reply memorandum in support of the motion to dismiss. The Court heard oral argument on the motion to dismiss on December 19, 2023. On July 2, 2024, the district court denied the motion to dismiss. We intend to vigorously defend this case.

Beginning in July 2023, the Company received subpoenas from the Securities Division of the Office of the Secretary of the Commonwealth of Massachusetts and the United States Securities and Exchange Commission seeking documents and/or requesting answers to interrogatories concerning, among other things, DK Marketplace, NFTs that are sold on DK Marketplace, the blockchain on which the NFTs were minted and digital assets and validator nodes associated with that blockchain, and related matters. We intend to comply with these requests.

Any adverse outcome in these matters could subject the Company to substantial damages and/or require alterations to the Company's business. The Company cannot provide any assurance as to the outcome of these matters.

The Company cannot predict with any degree of certainty the outcome of these matters or determine the extent of any potential liability or damages. The Company also cannot provide an estimate of the possible loss or range of loss. Any adverse outcome in these matters could expose the Company to substantial damages, penalties and/or require alterations to the Company's that may have a material adverse impact on the Company's operations and cash flows.

Despite the potential for significant damages, the Company does not believe, based on currently available information, that the outcome of these matters will have a material adverse effect on Company's financial condition, although the outcome could be material to the Company's operating results for any particular period, depending, in part, upon the operating results for such period.

Shareholder Derivative Litigation Related to DraftKings Marketplace

On May 31, 2023, a putative shareholder derivative action was filed in Nevada state court by an alleged shareholder of the Company. The action asserts claims on behalf of the Company against certain senior officers and members of the Board of

Directors of the Company for breach of fiduciary duty and unjust enrichment based primarily on allegations that the defendants caused or allowed the Company to disseminate misleading and inaccurate information to its shareholders in connection with NFTs that are sold and traded on the DK Marketplace. The action also alleges that certain individuals are liable for trading in Company stock at artificially inflated prices. The action seeks unspecified compensatory damages, changes to corporate governance and internal procedures, restitution, disgorgement, costs and attorney's fees, and other unspecified relief. All proceedings in this action were stayed by agreement of the parties pending resolution of the above-referenced motion to dismiss in the putative class action in Massachusetts federal district court. In light of the federal district court's above-referenced denial of the motion to dismiss in the putative class action in Massachusetts, the stay of proceedings in this action in Nevada state court was lifted on August 1, 2024.

The Company cannot predict with any degree of certainty the outcome of this matter or determine the extent of any potential liabilities. The Company also cannot provide an estimate of the possible loss or range of loss. Because this action alleges claims on behalf of the Company and purports to seek a judgment in favor of the Company, the Company does not believe, based on currently available information, that the outcome of the proceedings will have a material adverse effect on the Company's financial condition, although the outcome could be material to the Company's operating results for any particular period, depending, in part, upon the operating results for such period.

Scanlon

On December 8, 2023, plaintiffs Melissa Scanlon and Shane Harris, individually and on behalf of others similarly situated, filed a purported class action lawsuit against DraftKings in Middlesex County Superior Court of Massachusetts. Among other things, Plaintiffs allege that the Company's promotion that offered new customers an opportunity to earn up to 1,000 in site credits, and related advertisements, were: (1) unfair or deceptive practices in violation of Massachusetts General Laws ("M.G.L.") c. 93A, §§ 2, 9; and (2) untrue and misleading advertising in violation of M.G.L. c. 266, § 91. The Plaintiffs are seeking, among other things, injunctive relief, actual damages, double or treble damages, and attorneys' fees.

On January 16, 2024, DraftKings served a motion to transfer the case to the Business Litigation Session ("BLS") of the Massachusetts Superior Court. On February 5, 2024, Plaintiffs served their opposition to that motion. On February 21, 2024, DraftKings filed its motion to transfer, Plaintiffs' opposition, and a reply brief in support of the motion. The Middlesex Court granted the motion subject to acceptance of the case by the BLS court on February 26, 2024, and the BLS court accepted the case on March 26, 2024.

On January 29, 2024, DraftKings served its Motion to Dismiss all of Plaintiffs' claims. On March 11, 2024, Plaintiffs served their opposition to that motion. DraftKings served its reply brief on April 1, 2024, and the motion papers have been filed with the court. The court held oral argument on July 25, 2024.

The Company intends to vigorously defend this case. Any adverse outcome in this matter could subject the Company to substantial damages and /or require alterations to the Company's business. The Company cannot provide any assurance as to the outcome of this matter.

The Company cannot predict with any degree of certainty the outcome of the suit or determine the extent of any potential liability or damages. The Company also cannot provide an estimate of the possible loss or range of loss. Any adverse outcome in this matter could expose the Company to substantial damages or penalties that may have a material adverse impact on the Company's operations and cash flows.

Despite the potential for significant damages, the Company does not believe, based on currently available information, that the outcome of this matter will have a material adverse effect on Company's financial condition, although the outcome could be material to the Company's operating results for any particular period, depending, in part, upon the operating results for such period.

Guery

On April 17, 2024, plaintiff Samantha Guery, individually and on behalf of all others similarly situated, filed a purported class action lawsuit against DraftKings in the United States District Court for the Southern District of New York. Among other things, Plaintiff alleges that the Company's promotion that offered new customers an opportunity to place their first wager "risk free" was (1) "deceptive, unlawful, fraudulent, and unfair" in violation of New York General Business Law Section 349; and (2) false advertising under New York General Business Law Section 350. The plaintiffs are seeking, among other things, injunctive relief, actual damages, punitive damages, treble damages, and attorneys' fees.

By agreement of the parties, DraftKings' response to the Complaint is due on August 12, 2024.

The Company intends to vigorously defend this case. Any adverse outcome in this matter could subject the Company to substantial damages and /or require alterations to the Company's business. The Company cannot provide any assurance as to the outcome of this matter.

The Company cannot predict with any degree of certainty the outcome of the suit or determine the extent of any potential liability or damages. The Company also cannot provide an estimate of the possible loss or range of loss. Any adverse outcome in this matter could expose the Company to substantial damages or penalties that may have a material adverse impact on the Company's operations and cash flows.

Despite the potential for significant damages, the Company does not believe, based on currently available information, that the outcome of this matter will have a material adverse effect on Company's financial condition, although the outcome could be material to the Company's operating results for any particular period, depending, in part, upon the operating results for such period.

McAfee

On June 10, 2024, Plaintiff Matthew McAfee, individually and on behalf of all others similarly situated, filed a purported class action lawsuit against DraftKings in the Hamilton County Superior Court, State of Indiana. Among other things, Plaintiff alleges that those customers who had winning bets placed and accepted on the October 24, 2023 Lakers versus Nuggets basketball game that were subsequently canceled by DraftKings for obvious error were not timely canceled and should have been paid. Plaintiff brings claims for: (1) Indiana Deceptive Consumer Sales Act – Incurable Deceptive Act; (2) Indiana Deceptive Consumer Sales Act – Uncured Deceptive Act; and (3) breach of contract. Plaintiff seeks, among other things, actual and statutory damages, treble and exemplary damages, interest, and attorney fees and costs.

On July 12, 2024, DraftKings removed the matter to federal court in Indiana. Per agreement of the parties and the Court's order, DraftKings' response to the complaint is due on August 7, 2024.

The Company intends to vigorously defend this case. Any adverse outcome in this matter could subject the Company to substantial damages and/or require alterations to the Company's business. The Company cannot provide any assurance as to the outcome of this matter.

The Company cannot predict with any degree of certainty the outcome of the suit or determine the extent of any potential liability or damages. The Company also cannot provide an estimate of the possible loss or range of loss. Any adverse outcome in this matter could expose the Company to substantial damages or penalties that may have a material adverse impact on the Company's operations and cash flows.

Despite the potential for significant damages, the Company does not believe, based on currently available information, that the outcome of this matter will have a material adverse effect on Company's financial condition, although the outcome could be material to the Company's operating results for any particular period, depending, in part, upon the operating results for such period.

Other

In addition to the above actions, we are subject to various other legal proceedings and claims that arise in the ordinary course of business. In our opinion, the amount of ultimate liability with respect to any of these actions is unlikely to materially affect our financial condition, results of operations or liquidity, though the outcomes could be material to our operating results for any particular period, depending, in part, upon the operating results for such period.

Item 1A. Risk Factors.

Factors that could cause our actual results to differ materially from those in this Report are any of the risks described in the 2023 Annual Report. Any of these factors could result in a significant or material adverse effect on our results of operations or financial condition. Additional risk factors not presently known to us or that we currently deem immaterial may also impair our business or results of operations.

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

Issuance of Common Stock in Connection with DraftKings' Acquisition of Sports IQ Analytics Inc.

On May 7, 2024, we issued an aggregate of 248,684 shares of our Class A common stock (such issuance, the "SIQ Closing Stock Consideration") in connection with, and as partial consideration for, the completion of our acquisition of Sports IQ Analytics Inc. (the "SIQ Transaction").

The issuance of the SIQ Closing Stock Consideration did not involve any underwriters, any underwriting discounts or commissions, or any public offering. The SIQ Closing Stock Consideration was issued in reliance upon the exemption from registration afforded by Section 4(a)(2) of the Securities Act of 1933, as amended. The recipients of the SIQ Closing Stock Consideration represented their intentions to acquire the securities for investment only and not with views to or for sale in connection with any distribution thereof, and appropriate legends were placed upon the securities issued in connection with such issuance. There was no advertising or solicitation involved, and each of the recipients was an accredited or sophisticated investor and had adequate access to information about the Company's business and operations.

Item 3. Defaults Upon Senior Securities.

None.

Item 4. Mine Safety Disclosures.

Not applicable.

Item 5. Other Information.

Securities Trading Plans of Directors and Executive Officers

Certain of our directors and executive officers have made, and may from time to time enter into trading plans or make elections to have shares sold or withheld to cover withholding taxes or pay the exercise price of options, which may be designed to satisfy the affirmative defense conditions of Rule 10b5-1 under the Exchange Act or may constitute non-Rule 10b5-1 trading arrangements (as defined in Item 408(c) of Regulation S-K).

During the fiscal quarter ended June 30, 2024, except as noted above, none of our directors or executive officers adopted or terminated any contract, instruction or written plan for the purchase or sale of Company securities that was designed to satisfy the affirmative defense conditions of Rule 10b5-1(c) or any non-Rule 10b5-1 trading arrangement.

Chief Transformation Officer Letter Agreement

As previously announced on March 18, 2024, Jason Park transitioned to the role of the Company's Chief Transformation Officer effective May 1, 2024. In connection with the transition, on July 31, 2024, the Company and Mr. Park entered into a letter agreement to memorialize the terms of his compensation for his new role (the "Letter Agreement"). Pursuant to the Letter Agreement, effective August 1, 2024, Mr. Park will receive an annual base salary of $350,000 and an annual target bonus opportunity equal to 100% of his base salary (which will, for purposes of the annual target bonus opportunity in respect of 2024, reflect the base salary earned in 2024), in each case, less all applicable withholdings and deductions. Additionally, to reflect the change in Mr. Park's role, Mr. Park forfeited 50% of the performance-based restricted stock units granted to him on each of November 15, 2022 and February 13, 2023 that were eligible to vest based on the Company's fiscal year 2026 performance. All other outstanding equity awards held by Mr. Park will continue to vest in accordance with their terms.

Item 6. Exhibits.

The following exhibits are filed as part of, or incorporated by reference into, this Report:

Exhibit Index

Exhibit No.	Description
2.1	Agreement and Plan of Merger and Plan of Reorganization, dated as of February 11, 2024, by and among DraftKings Inc., DraftKings Holdings Inc., Fortune Merger Sub Inc., Fortune Merger Sub LLC, JackPocket Inc. and Shareholder Representative Services LLC (incorporated by reference to Exhibit 2.1 of the Company's Current Report on Form 8-K, filed with the SEC on February 15, 2024).
10.1*	Letter Agreement, dated as of July 31, 2024, by and between DraftKings Inc. and Jason Park.
31.1*	Certification of Chief Executive Officer pursuant to Rules 13a-14 and 15d-14 promulgated under the Securities Exchange Act of 1934.
31.2*	Certification of Chief Financial Officer pursuant to Rules 13a-14 and 15d-14 promulgated under the Securities Exchange Act of 1934.
32.1**	Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2**	Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101.INS*	Inline XBRL Instance Document - the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document.
101.SCH*	Inline XBRL Taxonomy Extension Schema Document.
101.CAL*	Inline XBRL Taxonomy Extension Calculation Linkbase Document.
101.DEF*	Inline XBRL Taxonomy Extension Definition Linkbase Document.
101.LAB*	Inline XBRL Taxonomy Extension Labels Linkbase Document.
101.PRE*	Inline XBRL Taxonomy Extension Presentation Linkbase Document.
104.1	Cover Page Interactive Data File (Embedded within the Inline XBRL document and included in Exhibit).

* Filed herewith.
** Furnished herewith.

SIGNATURES

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

Date: August 2, 2024

DRAFTKINGS INC.

By: /s/ Alan W. Ellingson
Name: Alan W. Ellingson
Title: Chief Financial Officer
(Principal Financial Officer and Principal Accounting Officer)

DraftKings Inc.
222 Berkeley Street, 5th Floor
Boston, MA 02116

July 31, 2024

Re: Transition to New Role and Treatment of Compensation and Equity Awards

Dear Jason:

Reference is made to (i) the Amended and Restated Executive Employment Agreement (the "Employment Agreement"), dated as of August 5, 2021, by and between you and DraftKings Holdings Inc. (formerly DraftKings Inc.), a Nevada corporation (the "Company"), (ii) the Nonsolicitation, Nondisclosure & Assignment of Inventions Agreement and the Noncompetition Covenant, each dated as of August 5, 2021, by and between you and the Company (collectively, the "Covenants"), and (iii) each award agreement (collectively with any and all non-competition covenants, exhibits and attachments thereto as amended from time to time, the "Award Agreements"), by and between you and the Company, governing the equity awards granted to you as described on Exhibit A attached hereto, which sets forth the unvested time-based restricted stock units ("RSUs") and performance-based restricted stock units ("PSUs") previously granted to you by the Company that are subject to the terms of the applicable award agreements documenting such awards (collectively, the "Equity Awards").

Effective on and as of August 1, 2024 (the "Compensation Transition Effective Date"), notwithstanding the terms set forth in the Employment Agreement and any Award Agreements, you acknowledge and agree (a) that the Company will pay you an annual base salary at an annual rate of $350,000 (the "New Base Salary", with the annual base salary before the Compensation Transition Effective Date, the "Prior Base Salary"), subject to standard federal and state payroll withholding requirements in accordance with the regular payroll practices of the Company, and (b) to forfeit, for no consideration, the awards of certain PSUs as set forth in Exhibit A attached hereto that are eligible to vest based on certain metrics tied to the Company's 2026 fiscal year performance (the "Specified 2026 PSUs"). For the avoidance of doubt, you will remain eligible for your 2024 Annual Cash Incentive in accordance with the terms of the Employment Agreement; provided, however, that the Annual Cash Incentivize will be pro-rated based on the number of calendar days paid the Prior Base Salary and the New Base Salary, respectively, measured as of the Compensation Transition Effective Date.

In connection with the role transition confirmation email, dated March 15, 2024, from you to the Company (the "Transition Letter"), you acknowledge and agree that (i) the transition from your role as Chief Financial Officer of the Company to your role as Chief Transformation Officer of the Company, effective as of May 1, 2024, (ii) the reduction in annual base salary as described in this letter effective as of the Compensation Transition Effective Date, and (iii) the forfeiture, for no consideration, of the Specified 2026 PSUs as described in this letter effective as of the Compensation Transition Effective Date do not, did not and will not, whether individually or collectively together, constitute a Qualifying Termination (as defined in the Employment Agreement), Good Reason (as defined in the Employment Agreement and any

applicable Award Agreements) or any similar term for purposes of the Employment Agreement, any Equity Awards or any other plan or arrangement of the Company or its affiliates.

Other than as set forth above and in the Transition Letter, the terms of the Employment Agreement, the Covenants and the Award Agreements shall remain in full force and effect.

DraftKings Holdings Inc.

By: /s/ Linda Aiello
Name: Linda Aiello
Title: Chief People Officer

Acknowledged and Agreed:

By: /s/ Jason Park
Name: Jason Park



DraftKings Inc.
222 Berkeley Street, 5th Floor
Boston, MA 02116

Exhibit A

Outstanding Equity Awards

Award	Grant Date or Program	Equity Award Transition Treatment
PSUs	2022 Long-Term Equity Program (2024 Performance Year)	Eligible to continue vesting in accordance with terms of award agreement and Employment Agreement.
PSUs	2022 Long-Term Equity Program (2026 Performance Year)	50% forfeited on the Compensation Transition Effective Date and 50% eligible to continue vesting in accordance with terms of award agreement and Employment Agreement.
PSUs	February 2023 (2024 Performance Year)	Eligible to continue vesting in accordance with terms of award agreement and Employment Agreement.
PSUs	February 2023 (2026 Performance Year)	50% forfeited on the Compensation Transition Effective Date and 50% eligible to continue vesting in accordance with terms of award agreement and Employment Agreement.
PSUs	February 2024 (2025 Performance Year)	Eligible to continue vesting in accordance with terms of award agreement and Employment Agreement.
PSUs	February 2024 (2027 Performance Year)	Eligible to continue vesting in accordance with terms of award agreement and Employment Agreement.
RSUs	August 2020, February 2021, February 2022, February 2023 and February 2024 pursuant to Annual Equity Refresh Program	Eligible to continue vesting in accordance with terms of award agreement and Employment Agreement.

Exhibit 31.1

Certification of Principal Executive Officer Pursuant to Exchange Act Rule 13a-14(a)/15d-14(a) as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

I, Jason D. Robins, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of DraftKings Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 2, 2024

/s/ Jason D. Robins

Jason D. Robins
Chief Executive Officer and Chairman of the Board
(Principal Executive Officer)

Exhibit 31.2

Certification of Principal Financial Officer Pursuant to Exchange Act Rule 13a-14(a)/15d-14(a) as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

I, Alan W. Ellingson, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of DraftKings Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   a. Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b. Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c. Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d. Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a. All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b. Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 2, 2024

/s/ Alan W. Ellingson

Alan W. Ellingson
Chief Financial Officer
(Principal Financial Officer)

Exhibit 32.1

Certification of Principal Executive Officer Pursuant to 18 U.S.C. Section 1350 as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

Pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, I, Jason D. Robins, Chief Executive Officer and Chairman of the Board of DraftKings Inc. (the "Company"), hereby certify, that, to my knowledge:

1. The Quarterly Report on Form 10-Q for the period ended June 30, 2024 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: August 2, 2024

/s/ Jason D. Robins

Jason D. Robins

Chief Executive Officer and Chairman of the Board

(Principal Executive Officer)

Exhibit 32.2

Certification of Principal Financial Officer Pursuant to 18 U.S.C. Section 1350 as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

Pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, I, Alan W. Ellingson, Chief Financial Officer of DraftKings Inc. (the "Company"), hereby certify, that, to my knowledge:

1. The Quarterly Report on Form 10-Q for the period ended June 30, 2024 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: August 2, 2024

/s/ Alan W. Ellingson

Alan W. Ellingson
Chief Financial Officer
(Principal Financial Officer)