

DNA BRANDS INC
Form S-1/A
October 21, 2011

Registration No. 333-176001

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

AMENDMENT NO. 2 TO

FORM S-1

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

DNA BRANDS, INC.
(Exact name of registrant as specified in its charter)

Colorado (State or other jurisdiction of Incorporation or organization)	5149 (Primary Standard Industrial Classification Code Number)	26-0394476 (I.R.S. Employer Identification No.)
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506 NW 77th Street
Boca Raton, Florida, 33487
(954) 978-8401
(Address, including zip code, and telephone number, including area code,
of registrant's principal executive offices)

Darren Marks
Chief Executive Officer
DNA BRANDS, INC.
506 NW 77th Street
Boca Raton, Florida, 33487
(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:
William T. Hart, Esq.
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1624 Washington St.
Denver, CO 80203
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As soon as practicable after the effective date of this Registration Statement
(Approximate date of commencement of proposed sale to the public)

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to

Rule 415 under the Securities Act of 1933, check the following box:

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering:

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a small reporting company:

Large accelerated filer Accelerated filer
 Non-accelerated filer Smaller Reporting company
 (Do not check if a smaller reporting company)

CALCULATION OF REGISTRATION FEE

Title of Each Class of Securities to be Registered	Amount to be Registered	Proposed Maximum Offering Price Per Share(1)	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee(2)
Common Stock offered by Selling Shareholders	4,427,000	\$0.80	\$3,541,600	\$412

(1) Estimated solely for purposes of calculating the registration fee in accordance with Rule 457(c) under the Securities Act of 1933.

THE REGISTRANT HEREBY AMENDS THIS REGISTRATION STATEMENT ON SUCH DATE OR DATES AS MAY BE NECESSARY TO DELAY ITS EFFECTIVE DATE UNTIL THE REGISTRANT SHALL FILE A FURTHER AMENDMENT WHICH SPECIFICALLY STATES THAT THIS REGISTRATION STATEMENT SHALL THEREAFTER BECOME EFFECTIVE IN ACCORDANCE WITH SECTION 8(a) OF THE SECURITIES ACT OF 1933 OR UNTIL THE REGISTRATION STATEMENT SHALL BECOME EFFECTIVE ON SUCH DATE AS THE COMMISSION, ACTING PURSUANT TO SAID SECTION 8(a), MAY DETERMINE.

PROSPECTUS

DNA BRANDS, INC.

4,427,000 Shares of Common Stock

This Prospectus relates to the resale by the selling stockholders (the "Selling Stockholders") of 4,427,000 shares of our common stock (the "Common Stock" or the "Securities"). The Selling Stockholders may sell their shares of our Common Stock from time to time at the then prevailing market price or privately negotiated prices. See "SELLING STOCKHOLDERS" and "PLAN OF DISTRIBUTION."

We will pay the expenses of registering these shares. We will not receive any proceeds from the sale of shares of Common Stock in this Offering. All of the net proceeds from the sale of our Common Stock will go to the Selling Stockholders.

Our Common Stock is currently listed for trading on the OTC Bulletin Board under the symbol "DNAX". On September 15, 2011, the closing price for our Common Stock was \$0.72.

Investing in our Common Stock involves a high degree of risk. You should invest in our Common Stock only if you can afford to lose your entire investment.

SEE "RISK FACTORS" BEGINNING ON PAGE 3.

The information in this Prospectus is not complete and may be changed. This Prospectus is included in the registration statement that was filed by DNA Brands, Inc. with the Securities and Exchange Commission. The Selling Stockholders may not sell these Shares until the registration statement becomes effective. This Prospectus is not an offer to sell these Shares and is not soliciting an offer to buy these Shares in any State where the offer or sale is not permitted.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

The date of this Prospectus is _____, 2011

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PROSPECTUS SUMMARY

This summary provides an overview of certain information contained elsewhere in this Prospectus and does not contain all of the information that you should consider or that may be important to you. Before making an investment decision, you should read the entire Prospectus carefully, including the “Risk Factors” section and the financial statements and the notes to the financial statements. In this Prospectus, the terms “DNA,” “the “Company,” “we,” “us” and “our” refer to DNA Brands, Inc., unless otherwise specified herein.

Overview

DNA Brands, Inc. (hereinafter referred to as “us,” “our,” “we,” the “Company” or “DNA”) was incorporated in the State of Colorado on May 23, 2007 under the name “Famous Products, Inc.” Prior to July 6, 2010 we were a holding company operating as a promotion and advertising company. Our current business commenced in May 2006 in the State of Florida under the name “Grass Roots Beverage Company, Inc.” (“Grass Roots”). Initial operations of Grass Roots included development of our energy drinks, sampling and other marketing efforts and initial distribution in the State of Florida.

Effective July 6, 2010, we executed agreements to acquire all of the assets, liabilities and contract rights of DNA Beverage Corporation of Boca Raton, Florida (“DNA Beverage”), including 100% of the common stock of DNA Beverage’s wholly owned subsidiary Grass Roots Beverage Company, Inc. (“Grass Roots”) in exchange for the issuance of 31,250,000 shares of our common stock. We were classified as a “shell” company prior to the aforesaid transaction. As part of the terms of these transactions:

- we amended our Articles of Incorporation to change our name to “DNA Brands, Inc.” and our authorized capital to 100,000,000 shares of Common Stock and 10,000,000 shares of Preferred stock. A relevant Information Statement regarding this action was not filed or disseminated to our shareholders of record on the date this action occurred. As a result, it is possible that we, along with our former and current officers and directors may have potential liability for non-compliance under the laws of the State of Colorado as well as federal securities laws. We believe that any such potential liability would not be considered material;
- our former President agreed to voluntarily return 19,274,400 common shares to us;
- our former Board of Directors approved a “spin-off” of our wholly owned subsidiary company, Fancy Face Promotions, Inc., a Colorado corporation. The terms of this “spin-off” provide for a dividend to be issued to our shareholders of one share of common stock for every share that our shareholders owned as of June 30, 2010, the record date of the dividend.
- our former officers and directors resigned their positions with us and were replaced by the former management team of DNA Beverage. Mr. Darren Marks, became a director and our President and CEO, and Mr. Melvin Leiner, became a director and our Executive Vice President, Secretary and COO/CFO. See “MANAGEMENT.”

The issuance of the 31,250,000 shares represented approximately 94.6% of our outstanding shares at the time of issuance.

We incurred net losses of (\$7,468,422) and (\$3,918,721), respectively, during the years ending December 31, 2010 and 2009. For the six month period ended June 30, 2011, we incurred a net loss of \$(2,179,801), or \$(0.06) per share, as compared to a net loss of \$(4,034,661), or \$(0.20) per share during the corresponding period of the prior

year. Based upon our current business plan, our ability to begin to generate profits from operations is dependent upon our obtaining additional financing and there can be no assurances that we will ever establish profitable operations. See “RISK FACTORS” and “MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS.”

Our principal offices are located at 506 NW 77th Street, Boca Raton, Florida, 33487, telephone (954) 970-3826. Our website is www.dnabrandsusa.com.

About The Offering

Common Stock to be Offered by Selling Shareholders Between February and May 2011, we sold 4,427,000 shares of our Series A preferred stock to a group of private investors at a price of \$0.25 per shares. Each Series A preferred share, at the option of the holder, could at any time be converted into one share of our common stock. As of September 15, 2011 all Series A preferred shares had been converted into shares of our common stock. By means of this prospectus, a number of our shareholders are offering to sell up to 4,427,000 shares of our common stock which they received upon the conversion of the Series A preferred shares.

Shares outstanding 38,259,882

Use of Proceeds We will not receive any proceeds from the sale of the Common Stock by the Selling Shareholders.

Risk Factors See the discussion under the caption "RISK FACTORS" and other information in this Prospectus for a discussion of factors you should carefully consider before deciding to invest in our Common Stock.

Selected Financial Data

The following summary of our financial information at December 31, 2010 and 2009, and for the years ended December 31, 2010 and 2009, has been derived from, and should be read in conjunction with, our audited financial statements included elsewhere in this Prospectus. The summary of our financial information as at June 30, 2011 and for the six month periods ended June 30, 2011 and 2010 has been derived from, and should be read in conjunction with, our unaudited interim financial statements also included elsewhere in this Prospectus.

Statement of Operations:

	Six Months Ended June 30,		Year Ended December 31,	
	2011	2010	2010	2009
Revenues	\$688,078	\$774,794	\$1,168,461	\$667,276
Total operating expenses	\$2,390,784	\$4,042,155	\$7,651,728	\$3,627,903
(Loss) from operations	\$(2,145,410)	\$(3,920,037)	\$(7,352,341)	\$(3,428,747)
Other (expense)	\$(34,391)	\$(114,624)	\$(116,081)	\$(489,974)
Net (loss)	\$(2,179,801)	\$(4,034,661)	\$(7,468,422)	\$(3,918,721)
Net (loss) per share – (basic and fully diluted)	\$(0.06)	\$(0.20)	\$(0.28)	\$(0.26)
Weighted average common shares outstanding	35,579,650	20,445,406	26,729,555	15,366,097

Balance Sheet:

	June 30, 2011	December 31, 2010	December 31, 2009
Cash	\$ 5,669	\$ 74,604	\$ 11,392
Current assets	\$ 581,559	\$ 438,824	\$ 298,860
Total assets	\$ 621,705	\$ 493,105	\$ 340,888
Current liabilities	\$ 2,743,185	\$ 2,951,266	\$ 2,766,431
Total liabilities	\$ 3,251,660	\$ 2,954,443	\$ 3,381,113
Total stockholders' deficit	\$ (2,629,955)	\$ (2,461,338)	\$ (3,040,225)

SPECIAL NOTE ABOUT FORWARD-LOOKING STATEMENTS

We have made some statements in this Prospectus, including some under “RISK FACTORS,” “MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS,” “DESCRIPTION OF BUSINESS” and elsewhere, which constitute forward-looking statements. These statements may discuss our future expectations or contain projections of our results of operations or financial condition or expected benefits to us resulting from acquisitions or transactions and involve known and unknown risks, uncertainties and other factors that may cause our actual results, levels of activity, performance or achievements to be materially different from any results, levels of activity, performance or achievements expressed or implied by any forward-looking statements. These factors include, among other things, those listed under “RISK FACTORS” and elsewhere in this Prospectus. In some cases, forward-looking statements can be identified by terminology such as “may,” “should,” “could,” “expects,” “intends,” “plans,” “anticipates,” “believes,” “estimates,” “predicts,” “potential” or negative of these terms or other comparable terminology. Although we believe that the expectations reflected in forward-looking statements are reasonable, we cannot guarantee future results, levels of activity, performance or achievements.

RISK FACTORS

An investment in our Common Stock is a risky investment. In addition to the other information contained in this Prospectus, prospective investors should carefully consider the following risk factors before purchasing shares of our Common Stock offered hereby. We believe that we have included all material risks.

Risks Related to our Operations

Our independent accountants have expressed a "going concern" opinion.

Our financial statements accompanying this Prospectus have been prepared assuming that we will continue as a going concern, which contemplates the realization of assets and liquidation of liabilities in the normal course of business. The financial statements do not include any adjustment that might result from the outcome of this uncertainty. We have a minimal operating history and minimal revenues or earnings from operations. We have no significant assets or financial resources. We will, in all likelihood, sustain operating expenses without corresponding revenues, at least until the third quarter of our fiscal year ending December 31, 2011, provided that we are successful in obtaining additional financing. See “DESCRIPTION OF BUSINESS” and “MANAGEMENT’S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS – Liquidity and Capital Resources.” There are no assurances that we will generate profits from operations.

We have not generated profits from our operations.

We incurred net losses of (\$7,468,422) and (\$3,918,721), respectively, during the years ending December 31, 2010 and 2009. For the six month period ended June 30, 2011, we incurred a net loss of \$(2,179,801), or \$(0.06) per share, as compared to a net loss of \$(4,034,661), or \$0.20 per share during the corresponding period of the prior year. Based upon our current business plan, our ability to begin to generate profits from operations is dependent upon our obtaining additional financing and there can be no assurances that we will ever establish profitable operations. As we pursue our business plan, we are incurring significant expenses without corresponding revenues. In the event that we remain unable to generate significant revenues to pay our operating expenses, we will not be able to achieve profitability or continue operations.

Our ability to continue as a going concern is dependent on raising additional capital, which we may not be able to do on favorable terms, or at all.

We need to raise additional capital to support our current operations and fund our sales and marketing programs. We estimate that we will need a minimum of \$3 million in additional capital in order to generate profits from operations. We can provide no assurance that additional funding will be available on a timely basis, on terms acceptable to us, or at all. If we are unsuccessful raising additional funding, our business may not continue as a going concern. Even if we do find additional funding sources, we may be required to issue securities with greater rights than those currently possessed by holders of our common stock. We may also be required to take other actions that may lessen the value of our common stock or dilute our common stockholders, including borrowing money on terms that are not favorable to us or issuing additional equity securities. If we experience difficulties raising money in the future, our business and liquidity will be materially adversely affected.

We do not currently have an external line of credit facility with any financial institution.

As indicated above, we have estimated that we need approximately \$3 million in additional capital to generate profits from operations. We have attempted to establish credit facilities with financial institutions but have experienced little or no success in these attempts due primarily to the current economic climate, specifically the reluctance of most financial institutions to provide such lines of credit to relatively new business ventures. We also have limited assets available to secure such a line of credit. We intend to continue to attempt to establish an external line of credit in the future, but there can be no assurances we will be able to do so. The failure to obtain an external line of credit could have a negative impact on our ability to generate profits.

Our financial results may fluctuate from period to period as a result of several factors which could adversely affect our stock price.

Our operating results may fluctuate significantly in the future as a result of a variety of factors, many of which are outside our control. Factors that will affect our financial results include:

- acceptance of our products and market penetration;
- the amount and timing of capital expenditures and other costs relating to the implementation of our business plan;
- the introduction of new products by our competitors; and
- general economic conditions and economic conditions specific to our industry.

As a strategic response to changes in the competitive environment, we may from time to time make certain pricing, service, or marketing decisions or acquisitions that could have a material adverse effect on our business, prospects, financial condition, and results of operations.

We are dependent upon third party suppliers of our raw materials.

We are dependent on outside vendors for our supplies of raw materials. While we believe that there are numerous sources of supply available, if the third party suppliers were to cease production or otherwise fail to supply us with quality raw materials in sufficient quantities on a timely basis and we were unable to contract on acceptable terms for these services with alternative suppliers, our ability to produce our products would be materially adversely affected.

We rely on our distributors, retailers and brokers, and this could affect our ability to efficiently and profitably distribute and market our products, maintain our existing markets and expand our business into other geographic markets.

Our ability to establish a market for our brands and products in new geographic distribution areas, as well as maintain and expand our existing markets, is dependent on our ability to establish and maintain successful relationships with reliable distributors, retailers and brokers strategically positioned to serve tho