

SMITH MICRO SOFTWARE INC

Form 8-K

February 13, 2007

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

**FORM 8-K**

**CURRENT REPORT  
Pursuant to Section 13 or 15(d) of the  
Securities Exchange Act of 1934  
Date of Report (Date of earliest event reported): February 11, 2007**

**Smith Micro Software, Inc.**  
(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction  
of incorporation)

**0-26536**  
(Commission File Number)

**33-0029027**  
(IRS Employer  
Identification No.)

**51 Columbia, Suite 200**  
**Aliso Viejo, California 92656**  
(Address of principal executive offices) (Zip Code)  
Registrant's telephone number, including area code: **(949) 362-5800**  
**None**  
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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**Item 1.01 Entry into a Material Definitive Agreement.**

On February 11, 2007, Smith Micro Software, Inc. (the Company) and IS Acquisition Sub, Inc., a wholly-owned subsidiary of the Company, entered into an Asset Purchase Agreement (the Asset Purchase Agreement) pursuant to which they agreed to acquire substantially all of the assets (the Acquisition) of Insignia Solutions plc and its subsidiaries Insignia Solutions Inc. and Insignia Solutions AB (collectively Insignia), including Insignia's Device Management Suite. The completion of the Acquisition is subject to customary closing conditions. The Board of Directors of each of the Company and Insignia approved the Acquisition and the Asset Purchase Agreement. Pursuant to the Asset Purchase Agreement, Insignia has agreed to indemnify the Company against any and all claims and losses incurred or suffered by the Company as a result of, among other things, any inaccuracy of any representation or warranty of Insignia contained in the Asset Purchase Agreement.

Under the terms of the Asset Purchase Agreement, the aggregate consideration for the Acquisition will be \$18.575 million, consisting of:

\$14.5 million in cash (less any principal amount in excess of \$1.5 million payable by Insignia under the Promissory Note initially delivered to the Company on December 22, 2006 (the Promissory Note));

forgiveness of all indebtedness payable by Insignia under the Promissory Note (the principal amount of the note was \$1.125 million on February 11, 2006 and is expected to be at least \$1.5 million at the closing of the Acquisition), and

the assumption of \$2.575 million of liabilities.

In addition, the Company will hold back \$1.5 million in cash from the Acquisition consideration for twelve months as security for satisfaction of Insignia's indemnification obligations under the Asset Purchase Agreement.

The foregoing description of the Asset Purchase Agreement does not purport to be complete and is qualified in its entirety by the Asset Purchase Agreement attached as Exhibit 2.2 to this Current Report on Form 8-K and incorporated herein by reference. The Company issued a press release on February 12, 2007 regarding the execution of the Asset Purchase Agreement, a copy of which is attached as Exhibit 99.1 to this Current Report on Form 8-K.

The Asset Purchase Agreement has been included to provide investors with information regarding its terms. It is not intended to provide any other factual information about the Company and Insignia. The Asset Purchase Agreement contains representations and warranties that each of the Company and Insignia made to the other. The assertions embodied in those representations and warranties are qualified by information in confidential disclosure schedules that the parties have exchanged in connection with signing the Asset Purchase Agreement. The disclosure schedules contain information that modifies, qualifies and creates exceptions to the representations and warranties set forth in the Asset Purchase Agreement. Accordingly, investors should not rely on the representations and warranties as characterizations of the actual state of facts at the time they were made or otherwise.

**Item 9.01 Financial Statements and Exhibits.**

*(a) Financial Statements of Businesses Acquired.*

The financial information required by this item, if any, with respect to the Acquisition, will be filed as soon as practicable, and in any event not later than 71 days after the date on which any Current Report on Form 8-K is required to be filed pursuant to Item 2.01.

*(b) Pro Forma Financial Information.*

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The pro forma financial information required by this item, if any, with respect to the Acquisition, will be filed as soon as practicable, and in any event not later than 71 days after the date on which any Current Report on Form 8-K is required to be filed pursuant to Item 2.01.

(d) *Exhibits.*

2.2 Asset Purchase Agreement, dated February 11, 2007, by and among Smith Micro Software, Inc., IS Acquisition Sub, Inc., Insignia Solutions plc, Insignia Solutions Inc. and Insignia Solutions AB. Certain schedules and exhibits referenced in the Asset Purchase Agreement have been omitted in accordance with Item 601(b)(2) of Regulation S-K. A copy of any omitted schedule and/or exhibit will be furnished supplementally to the Securities and Exchange Commission upon request.

99.1 Press Release of Smith Micro Software, Inc. issued on February 12, 2007.

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**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 hereunto duly authorized.

**SMITH MICRO SOFTWARE, INC.**

Date: February 13, 2007

/s/ Andrew Schmidt  
Andrew Schmidt  
Chief Financial Officer

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| <b>Exhibit Number</b> | <b>Description</b>   |
|-----------------------|--|
| 2.2                   | Asset Purchase Agreement, dated February 11, 2007, by and among Smith Micro Software, Inc., IS Acquisition Sub, Inc., Insignia Solutions plc, Insignia Solutions Inc. and Insignia Solutions AB. Certain schedules and exhibits referenced in the Asset Purchase Agreement have been omitted in accordance with Item 601(b)(2) of Regulation S-K. A copy of any omitted schedule and/or exhibit will be furnished supplementally to the Securities and Exchange Commission upon request. |
| 99.1                  | Press Release of Smith Micro Software, Inc. issued on February 12, 2007.   |