

# SECURITIES AND EXCHANGE COMMISSION

## FORM SC TO-I/A

Issuer tender offer statement [amend]

Filing Date: **2009-01-26**  
SEC Accession No. **0001193125-09-011214**

([HTML Version](#) on [secdatabase.com](#))

### SUBJECT COMPANY

#### ShoreTel Inc

CIK: **1388133** | IRS No.: **770443568** | State of Incorp.: **CA** | Fiscal Year End: **0630**  
Type: **SC TO-I/A** | Act: **34** | File No.: **005-83800** | Film No.: **09546239**  
SIC: **3661** Telephone & telegraph apparatus

Mailing Address  
960 STEWART DRIVE  
SUNNYVALE CA 94085

Business Address  
960 STEWART DRIVE  
SUNNYVALE CA 94085  
408 331 3300

### FILED BY

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

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**SCHEDULE TO  
(Amendment No. 2)  
(Rule 13e-4)**

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**TENDER OFFER STATEMENT UNDER SECTION 14(d)(1) OR 13(e)(1)  
OF THE SECURITIES EXCHANGE ACT OF 1934**

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**ShoreTel, Inc.**

(Name of Subject Company (Issuer) and Name of Filing Person (Offeror))

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**Stock Options Granted Under Certain ShoreTel, Inc. Equity Plans to Purchase Common Stock**  
(Title of Class of Securities)

**825211-105**

(CUSIP Number of Class of Securities)

(Underlying Common Stock)

**Michael E. Healy  
Chief Financial Officer  
ShoreTel, Inc.**

**960 Stewart Drive  
Sunnyvale, California 94085**

**(408) 331-3300**

(Name, Address and Telephone Number of Person Authorized to  
Receive Notices and Communications on Behalf of Filing Person)

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*Copy to:*

**Jeffrey R. Vetter, Esq.  
Fenwick & West LLP  
801 California St.  
Mountain View, CA 94041  
Telephone: (650) 988-8500  
Facsimile: (650) 938-5200**

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**CALCULATION OF FILING FEE**

**Transaction Valuation**

**\$25,873,719\***

**Amount of Filing Fee**

**\$1,017\*\***

\* Calculated solely for purposes of determining the filing fee. This amount is based on the Black-Scholes option valuation model, and assumes that all outstanding options eligible for tender covering an aggregate of 3,256,373 shares of the common stock of ShoreTel, Inc., which is the maximum number of shares subject to stock options eligible to be exchanged pursuant to this offer.

\*\* The amount of the filing fee, calculated in accordance with Rule 0-11 under the Securities Exchange Act of 1934, as amended, as modified by Fee Advisory No. 6 for fiscal year 2007, equals \$39.30 per \$1,000,000 of transaction valuation. The transaction valuation set forth above was calculated for the sole purpose of determining the filing fee, and should not be used or relied upon for any other purpose.

- Check box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the form or schedule and the date of its filing.

**Amount Previously Paid:** \$1,017.

**Filing Party:** ShoreTel, Inc.

**Form or Registration No.:** Schedule TO.

**Date Filed:** January 2, 2009.

- Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

Check the appropriate boxes below to designate any transactions to which the statement relates:

- Third-party tender offer subject to Rule 14d-1.
- Issuer tender offer subject to Rule 13e-4.
- Going-private transaction subject to Rule 13e-3.
- Amendment to Schedule 13D under Rule 13d-2.

Check the following box if the filing is a final amendment reporting the results of the tender offer:

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This Amendment No. 2 amends and supplements the Tender Offer Statement on Schedule TO originally filed by ShoreTel, Inc. (“*ShoreTel*”) with the Securities and Exchange Commission on January 2, 2009 (the “*Schedule TO*”) relating an offer by ShoreTel to certain of its employees to exchange certain outstanding stock options, for new options to be granted by ShoreTel under its 2007 Equity Incentive Plan and upon the terms and conditions described in the Offer to Exchange, attached to Amendment No. 1 to the Schedule TO as Exhibit 99(a)(1)(A) (the “*Offer to Exchange*”).

ShoreTel hereby amends and supplements the Schedule TO to add certain summary financial information to Item 9 of the Offer to Exchange.

**ITEM 12. EXHIBITS.**

The Exhibit Index included in this Schedule TO is incorporated herein by reference.

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**SIGNATURE**

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this Schedule TO is true, complete and correct.

Dated: January 26, 2009

**SHORTEL, INC.**

By: /s/ William Garvey

Name: William Garvey

Title: Vice President & General Counsel

## EXHIBIT INDEX

<u>Exhibit</u> <u>Number</u>	<u>Description</u>
99(a)(1)(A)*	Offer to Exchange Outstanding Stock Options for New Stock Options dated January 21, 2009.
99(a)(1)(B)*	Letter of Transmittal.
99(a)(1)(C)*	ShoreTel, Inc.' s Annual Report on Form 10-K for the fiscal year ended June 30, 2008 filed with the Securities and Exchange Commission on September 12, 2008 and incorporated herein by reference
99(a)(1)(D)*	ShoreTel, Inc.' s Quarterly Report on Form 10-Q for the quarter ended September 30, 2008 filed with the Securities and Exchange Commission on November 6, 2008, as amended and incorporated herein by reference
99(a)(1)(E)	Supplement to Offer to Exchange.
99(b)	Not applicable.
99(d)(1)(A)	ShoreTel, Inc. 1997 Stock Option Plan (filed as Exhibit 10.2 to ShoreTel' s Registration Statement on Form S-1 file no. 333-140630).
99(d)(1)(B)	ShoreTel, Inc. 2007 Equity Incentive Plan (filed as Exhibit 10.3 to Amendment No. 3 to ShoreTel' s Registration Statement on Form S-1 file no. 333-140630).
99(g)	Not applicable.
99(h)	Not applicable.

\* previously filed

**SHORTEL, INC.**  
**SUPPLEMENT TO OFFER TO EXCHANGE OUTSTANDING STOCK OPTIONS**  
**FOR NEW STOCK OPTIONS**  
**THE OFFER AND WITHDRAWAL RIGHTS EXPIRE ON**  
**FEBRUARY 2, 2009 AT 5:00 P.M., PACIFIC TIME,**  
**UNLESS THE OFFER IS EXTENDED**

The summary financial data included in Item 9 of the Offer to Exchange, as amended, has been updated to include additional balance sheet information. The following table summarizes certain of our consolidated financial data.

The following selected financial data should be read in connection with our consolidated financial statements and notes thereto and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” included elsewhere on our Form 10-K for the fiscal year ended June 30, 2008 and our Form 10-Q filed for the quarter ended September 30, 2008, each of which is incorporated by reference. Our historical results are not necessarily indicative of the results to be expected in any future period.

	<b>Three Months Ended</b>			
	<b>September 30,</b>		<b>Year Ended June 30,</b>	
	<b>2008</b>	<b>2007</b>	<b>2008</b>	<b>2007</b>
	<b>(In thousands, except per share amounts)</b>			
<b>Revenue:</b>				
Product	\$30,014	\$28,125	\$110,496	\$87,095
Support and services	<u>5,846</u>	<u>3,850</u>	<u>18,233</u>	<u>10,732</u>
Total revenue	35,860	31,975	128,729	97,827
<b>Cost of revenue:</b>				
Product(1)	9,986	9,404	37,451	29,751
Support and services(1)	<u>2,914</u>	<u>2,159</u>	<u>9,994</u>	<u>6,837</u>
Total cost of revenue	<u>12,900</u>	<u>11,563</u>	<u>47,445</u>	<u>36,588</u>
Gross profit	22,960	20,412	81,284	61,239
<b>Operating expenses:</b>				



Research and development(1)	7,786	6,207	26,691	17,224
Sales and marketing(1)	11,148	8,322	37,780	26,126
General and administrative(1)	<u>6,010</u>	<u>3,723</u>	<u>17,420</u>	<u>11,673</u>
Total operating expenses	<u>24,944</u>	<u>18,252</u>	<u>81,891</u>	<u>55,023</u>
Operating income (loss)	(1,984 )	2,160	(607 )	6,216
Other income – net	<u>432</u>	<u>1,203</u>	<u>4,101</u>	<u>273</u>
Income (loss) before provision for income tax	(1,552 )	3,363	3,494	6,489
Income tax provision	<u>(608 )</u>	<u>(806 )</u>	<u>(861 )</u>	<u>(408 )</u>
Net income (loss)	(2,160 )	2,557	2,633	6,081
Accretion of preferred stock	<u>–</u>	<u>–</u>	<u>–</u>	<u>(50 )</u>
Net income (loss) available to common stockholders	<u><u>\$(2,160 )</u></u>	<u><u>\$2,557</u></u>	<u><u>\$2,633</u></u>	<u><u>\$6,031</u></u>
Net income (loss) per common share available to common stockholders(2):				
Basic	<u><u>\$(0.05 )</u></u>	<u><u>\$0.06</u></u>	<u><u>\$0.06</u></u>	<u><u>\$0.70</u></u>
Diluted	<u><u>\$(0.05 )</u></u>	<u><u>\$0.06</u></u>	<u><u>\$0.06</u></u>	<u><u>\$0.17</u></u>
Shares used in computing net income (loss) per share available to common stockholders:				
Basic	43,318	41,881	42,413	8,565
Diluted	43,318	44,989	44,861	35,581

(1) Includes stock-based compensation expense as follows:

	Three Months Ended			
	September 30,		Year Ended June 30,	
	2008	2007	2008	2007
	(In thousands)			
Cost of product revenue	\$22	\$8	\$59	\$12
Cost of support and services revenue	194	58	503	99
Research and development	722	254	1,885	384
Sales and marketing	973	451	2,358	533
General and administrative	801	294	2,135	1,658
Total stock-based compensation expense	<u>\$2,712</u>	<u>\$1,065</u>	<u>\$6,940</u>	<u>\$2,686</u>

(2) See Note 3 to our consolidated financial statements for a description of the method used to compute basic and diluted net income (loss) per share available to common stockholders, which gives effect to the 1-for-10 reverse split of our outstanding common stock on June 22, 2007.

Effective July 1, 2006, we adopted SFAS 123(R) "Share-Based Payment." Stock-based compensation expense for years prior to fiscal 2007 was calculated based on provisions of APB 25 "Accounting for Stock Issued to Employees."

	As of			
	September 30,		June 30,	
	2008	2007	2008	2007
	(In thousands)			
<b>Consolidated balance sheet data:</b>				
Cash and cash equivalents and short-term investments	\$107,107	\$99,192	\$102,811	\$17,326
Current assets	142,319	130,147	141,791	47,166
Current liabilities	30,912	23,073	29,798	24,148
Working capital	111,407	107,074	111,993	23,018
Current assets	142,319	130,147	141,791	47,166
Non-current assets	7,178	3,489	6,006	5,868
Total assets	149,497	133,626	147,797	53,034
Non-current liabilities	5,065	4,441	4,786	4,374
Redeemable convertible preferred stock	-	-	-	56,341
Total stockholders' equity (deficit)	113,520	106,122	113,213	(31,829)
	<b>Three Months Ended</b>			
	September 30,		Year Ended June 30,	
	2008	2007	2008	2007
	(In thousands)			

**Summary cash flow data:**

Cash flows provided by operating activities	\$5,695	\$3,731	\$8,153	\$7,910
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Cash flows provided by (used in) investing activities	5,030	(679 )	(36,519)	(2,224 )
Cash flows provided by (used in) financing activities	39	78,814	79,712	(693 )

Three Months Ended			
September 30,		Year Ended June 30,	
2008	2007	2008	2007
(In thousands)			

**Ratio of earnings to fixed charges:**

Interest factor in rental expenses	\$100	\$50	\$400	\$175
Fixed Charges:	<u>100</u>	<u>50</u>	<u>400</u>	<u>175</u>
Income (loss) before income taxes	<u>\$(1,552 )</u>	<u>\$3,363</u>	<u>\$3,494</u>	<u>\$6,489</u>
Fixed Charges:	<u>100</u>	<u>50</u>	<u>400</u>	<u>175</u>
Earnings (loss)	<u>\$(1,452 )</u>	<u>\$3,413</u>	<u>\$3,894</u>	<u>\$6,664</u>
Ratio of earnings to fixed charges	<u>*</u>	<u>68.3</u>	<u>9.7</u>	<u>38.1</u>

\* Earnings are inadequate to cover fixed charges in this period.

The book value per share of our common stock as of September 30, 2008 was \$2.61.

# FENWICK & WEST LLP

SILICON VALLEY CENTER 801 CALIFORNIA STREET MOUNTAIN VIEW, CA 94041  
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January 26, 2009

JEFFREY R. VETTER

EMAIL JVETTER@FENWICK.COM  
DIRECT DIAL (650) 335-7631

**Via EDGAR and Facsimile**

Securities and Exchange Commission  
100 F Street, N.E.  
Washington, D.C. 20549-3628

Attention: Julia E. Griffith  
Nicholas Panos  
Mail Stop 3628

Re: ShoreTel, Inc.  
Amendment No. 2 to Schedule TO

Dear Ms. Griffith:

On behalf of ShoreTel, Inc. ("*ShoreTel*"), we are transmitting herewith Amendment No. 2 (the "*Amendment*") to the Schedule TO originally filed by ShoreTel with the Securities and Exchange Commission (the "*Commission*") on January 2, 2009 (the "*Schedule TO*"). The Amendment includes a supplement to the Offer to Exchange previously filed as part of the Schedule TO. The supplement includes the additional summary consolidated balance sheet data was discussed on January 23. We have also enclosed with the copy of this letter that is being transmitted via overnight courier a copy of the Amendment in paper format.

Please feel free to contact me at (650) 335-7631 if the Staff has any additional questions or comments.

Very Truly Yours,

/s/ Jeffrey R. Vetter

\_\_\_\_\_  
Jeffrey R. Vetter

cc: William Garvey, Esq., ShoreTel, Inc.