

TROIKA MEDIA GROUP, INC.

FORM 8-K (Current report filing)

Filed 11/20/23 for the Period Ending 11/17/23

Address	25 WEST 39TH STREET, 6TH FLOOR NEW YORK, NY, 10018
Telephone	323-965-1650
CIK	0001021096
SIC Code	4841 - Cable and Other Pay Television Services
Industry	Advertising & Marketing
Sector	Consumer Cyclical
Fiscal Year	12/31

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) November 17, 2023

TROIKA MEDIA GROUP, INC.

(Exact name of registrant as specified in its charter)

Nevada (State or other jurisdiction of incorporation)	001-40329 (Commission File Number)	83-0401552 (IRS Employer Identification No.)
25 W 39th Street New York, NY (Address of principal executive offices)		10018 (Zip Code)

Registrant's telephone number, including area code **(212) 213-0111**

N/A

(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))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Shares \$0.001 par value	TRKA	The NASDAQ Capital Market
Redeemable Warrants to acquire Common Shares	TRKAW	The NASDAQ Capital Market

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

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. ☐

ITEM 3.01 NOTICE OF DELISTING OR FAILURE TO SATISFY A CONTINUED LISTING RULE OR STANDARD; TRANSFER OF LISTING

On November 17, 2023, Troika Media Group, Inc. (the "Company") received a delinquency notification letter from Nasdaq stating that the Company was not in compliance with Nasdaq Listing Rule 5250(c)(1) because it had not timely filed its Quarterly Report on Form 10-Q for the quarter ended September 30, 2023 (the "Form 10-Q"). According to the letter from Nasdaq, the Company must submit a plan of compliance (the "Plan") within sixty (60) days addressing how it intends to regain compliance with Nasdaq's listing rules or otherwise file the Form 10-Q before the expiration of such sixty (60) day period.

ITEM 8.01 OTHER EVENTS

As previously disclosed, on September 29, 2023, Blue Torch Finance LLC ("Blue Torch") and the Company entered into a Second Amended and Restated Limited Waiver (the "Second A&R Limited Waiver") of certain events of default (such events of default, the "Specified Events of Default") under the Financing Agreement dated March 21, 2022, by and among the Company, the lenders from time-to-time party thereto (the "Lenders"), and Blue Torch as collateral agent and administrative agent for the Lenders, as amended by that certain First Amendment to Financing agreement, dated as of September 22, 2023, and as further amended, supplemented or otherwise modified from time to time prior to the date hereof (the "Financing Agreement"). The Second A&R Limited Waiver amends and restates the Amended Limited Waiver to Financing Agreement dated as of February 10, 2023 (as amended, the "Prior Waiver"). The Prior Waiver would have expired on the earliest of (x) the occurrence of an Event of Default under the Financing Agreement that is not a Specified Event of Default, and (z) September 29, 2023, subject to potential extension of up to 60 days to obtain regulatory and/or shareholder approval in the event the Company is pursuing a sale transaction (the date such period expires, the "Outside Date"). The Company and Blue Torch entered into the Second A&R Limited Wavier to, among other things, (i) waive certain Specified Events of Default including any failure of the Company to make the quarterly principal and interest payments under the Financing Agreement due to be paid on or about September 30, 2023; and (ii) extend the Outside Date. The Second A&R Limited Waiver will expire on the earliest of (x) the occurrence of an Event of Default under the Financing Agreement that is not a Specified Event of Default, (y) a failure by the Company to comply with certain sale and refinancing milestones set forth in a side letter agreed by the Company and the Lenders and (z) the amended Outside Date of October 13, 2023 (the "Waiver Period"). On October 13, 2023, the Company and Blue Torch entered into the First Amendment to the Second A&R Limited Waiver pursuant to which Blue Torch agreed to extend the Outside Date from October 13, 2023 to October 20, 2023. On October 20, 2023, the Company and Blue Torch entered into the Second Amendment to the Second A&R Limited Waiver pursuant to which Blue Torch agreed to extend the Outside Date from October 20, 2023 to October 27, 2023. Effective as of October 27, 2023, the Company and Blue Torch entered into the Third Amendment to the Second A&R Limited Waiver pursuant to which Blue Torch agreed to extend the Outside Date from October 27, 2023 to November 3, 2023. Effective as of November 3, 2023, the Company and Blue Torch entered into the Fourth Amendment to the Second A&R Limited Waiver pursuant to which Blue Torch agreed to extend the Outside Date from November 3, 2023 to November 10, 2023. Effective as of November 10, 2023, the Company and Blue Torch entered into the Fifth Amendment to the Second A&R Limited Waiver pursuant to which Blue Torch agreed to extend the Outside Date from November 10, 2023 to November 17, 2023.

Effective as of November 17, 2023, the Company and Blue Torch entered into the Sixth Amendment to the Second A&R Limited Waiver (the “Sixth Amendment to Second A&R Limited Waiver”) pursuant to which Blue Torch agreed to extend the Outside Date from November 17, 2023 to November 29, 2023.

The Second A&R Limited Waiver, as amended, concerns events of default that relate to the Company’s existing and anticipated failures to satisfy certain financial and non-financial covenants under the Financing Agreement. If the Company is unsuccessful in curing the continuing events of default by the expiration of the Waiver Period, the Company intends to seek further Limited Waivers with Blue Torch, although we cannot assure you that Blue Torch would be willing to grant additional waivers. If the Company failed to obtain a waiver or extension, the Company would be in default under the Financing Agreement and the lenders would be able to exercise remedies available to them under the Financing Agreement. For further information on the terms of the Financing Agreement please refer to our Amended Annual Report on Form 10-K/A for the fiscal year ended June 30, 2022, filed with the SEC on November 22, 2022.

ITEM 9.01 FINANCIAL STATEMENTS AND EXHIBITS

(d) Exhibits.

Exhibit No.

[10.1](#)

104

Description

[Sixth Amendment to Second A&R Limited Waiver](#)

Cover Page Interactive Data File (embedded within the Inline XBRL document)

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.

Troika Media Group, Inc.

(Registrant)

Date: November 20, 2023

By: /s/ Derek McKinney

(Signature)

Derek McKinney

General Counsel and Corporate Secretary

**SIXTH AMENDMENT TO THE SECOND AMENDED AND RESTATED LIMITED
WAIVER TO FINANCING AGREEMENT**

This Sixth Amendment to the Second Amended and Restated Limited Waiver to Financing Agreement (this “Amendment”), dated November 17, 2023, is entered into by and among TROIKA MEDIA GROUP, INC., a Nevada corporation (the “Borrower”), each subsidiary of Borrower listed as a “Guarantor” on the signature pages hereto (together with Borrower and each other Person that executes a joinder agreement and becomes a “Guarantor” under the Financing Agreement referenced below, each a “Guarantor” and collectively, the “Guarantors”), the Lenders party hereto, BLUE TORCH FINANCE LLC, a Delaware limited liability company (“Blue Torch”), as collateral agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, the “Collateral Agent”), and Blue Torch, as administrative agent for the Lenders (in such capacity, together with its successors and assigns in such capacity, the “Administrative Agent” and together with the Collateral Agent, each an “Agent” and collectively, the “Agents”, and together with the Borrower, the Guarantors and Lenders, the “Parties” and each a “Party”).

WHEREAS, reference is made to that certain Second Amended and Restated Limited Waiver to Financing Agreement, dated as of September 29, 2023 (as amended by that certain First Amendment to the Second Amended and Restated Limited Waiver to Financing Agreement, dated as of October 13, 2023, Second Amendment to the Second Amended and Restated Limited Waiver to Financing Agreement, dated as of October 20, 2023, Third Amendment to the Second Amended and Restated Limited Waiver to Financing Agreement, dated as of October 27, 2023, Fourth Amendment to the Second Amended and Restated Limited Waiver to Financing Agreement, dated as of November 3, 2023, Fifth Amendment to the Second Amended and Restated Limited Waiver to Financing Agreement, dated as of November 10, 2023, and as further amended, supplemented or otherwise modified from time to time prior to the date hereof, the “Existing Limited Waiver Agreement”), by and among the Parties; and

WHEREAS, the Parties wish to modify the Existing Limited Waiver Agreement as hereinafter described.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Definitions.**

Capitalized terms used but not otherwise defined herein shall have the meanings ascribed thereto in the Existing Limited Waiver Agreement.

2. **Amendment to the Existing Limited Waiver Agreement.**

Section 2(a) of the Existing Limited Waiver Agreement is hereby amended to replace the text reading “November 17, 2023” contained therein with the text reading “November 29, 2023”.

3. **Conditions Precedent.** This Amendment shall become effective on and as of the date on which the Agents shall have received counterparts of this Amendment executed and

delivered by a duly authorized officer of the Borrower, the Guarantors, the Agents and Lenders constituting the Required Lenders (such date, the “Amendment Effective Date”). Without limitation of the foregoing, the Parties irrevocably agree that the Amendment Effective Date has occurred on and as of November 17, 2023.

4. **Acknowledgments.** Each Loan Party acknowledges and agrees that:

(a) as of the date hereof, the Loan Parties have failed to make the September 2023 P&I Payment, as required pursuant to Section 2.03(b) and 2.04(d) of the Financing Agreement, which failure constitutes an Event of Default under Section 9.01(a) of the Financing Agreement; and

(b) as of September 29, 2023, the aggregate principal balance of the Obligations outstanding under the Financing Agreement (inclusive of accrued unpaid interest thereon but exclusive of any fees, expenses, and other amounts that are chargeable or otherwise reimbursable under the Financing Agreement) is \$78,495,828.15.

5. **Releases.**

(a) Each of the Loan Parties (on behalf of itself and its Affiliates) for itself and for its successors in title and assignees and, to the extent the same is claimed by right of, through or under any of the Loan Parties, for its past, present and future employees, agents, representatives (other than legal representatives), officers, directors, shareholders, and trustees (each, a “Releasing Party” and collectively, the “Releasing Parties”), does hereby remise, release and discharge, and shall be deemed to have forever remised, released and discharged, the Administrative Agent, Collateral Agent and each of the Lenders in their respective capacities as such under the Loan Documents, and the Administrative Agent’s, Collateral Agent’s and each Lender’s respective successors-in-title, legal representatives and assignees, past, present and future officers, directors, affiliates, shareholders, trustees, agents, employees, consultants, experts, advisors, attorneys and other professionals and all other persons and entities to whom the Administrative Agent, Collateral Agent and each of the Lenders or any of their respective successors-in-title, legal representatives and assignees, past, present and future officers, directors, affiliates, shareholders, trustees, agents, employees, consultants, experts, advisors, attorneys and other professionals would be liable if such persons or entities were found to be liable to any Releasing Party or any of them (collectively, hereinafter the “Releasees”), from any and all manner of action and actions, cause and causes of action, claims, charges, demands, counterclaims, crossclaims, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, rights of setoff and recoupment, controversies, damages, judgments, expenses, executions, liens, claims of liens, claims of costs, penalties, attorneys’ fees, or any other compensation, recovery or relief on account of any liability, obligation, demand or cause of action of whatever nature, whether in law, equity or otherwise, whether known or unknown, fixed or contingent, joint and/or several, secured or unsecured, due or not due, primary or secondary, liquidated or unliquidated, contractual or tortious, direct, indirect, or derivative, asserted or unasserted, foreseen or unforeseen, suspected or unsuspected, now existing, heretofore existing or which may heretofore accrue against any of the Releasees, and which are, in each case, based on any act, fact, event or omission or other matter, cause or thing occurring at any time prior to or on the date hereof in any way, directly or indirectly arising out of, connected with or relating to the Financing Agreement or any other Loan Document

(including, without limitation, this Amendment and the Existing Limited Waiver Agreement) and the transactions contemplated thereby, and all other agreements, certificates, instruments and other documents and statements (whether written or oral) related to any of the foregoing (each, a “Claim” and collectively, the “Claims”); provided, that, no Releasing Party shall have any obligation with respect to Claims to the extent such Claims are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of any Releasee. Each Releasing Party further stipulates and agrees with respect to all Claims, that it hereby waives, to the fullest extent permitted by applicable law, any and all provisions, rights, and benefits conferred by any applicable U.S. federal or state law, or any principle of common law, that would otherwise limit a release or discharge of any unknown Claims pursuant to this Section 5.

(b) Each of the Loan Parties, on behalf of itself and its successors, assigns, and other legal representatives, hereby absolutely, unconditionally and irrevocably, covenants and agrees with and in favor of each Releasee that it will not sue (at law, in equity, in any regulatory proceeding or otherwise) any Releasee on the basis of any Claim released, remised and discharged by any Loan Party pursuant to Section 5(a) hereof. If any Loan Party or any of its successors, assigns or other legal representatives violates the foregoing covenant, the Loan Parties, each for itself and its successors, assigns and legal representatives, agrees to pay, in addition to such other damages as any Releasee may sustain as a result of such violation, all attorneys’ fees and costs incurred by any Releasee as a result of such violation.

6. **Representations.** Each Party represents and warrants that its execution, delivery and performance of this Amendment has been duly authorized and that this Amendment constitutes its legal, valid and binding obligations.

7. **Governing Law.** This Amendment shall be governed by, construed and enforced under the same choice of law that governs the Existing Limited Waiver Agreement.

8. **Entire Agreement.** This Amendment and the Existing Limited Waiver Agreement constitute the entire agreement and understanding of the Parties with respect to their subject matter and supersede all oral communication and prior writings with respect thereto.

9. **Limitation.** Except for any amendment to the Existing Limited Waiver Agreement made pursuant to this Amendment, all terms and conditions of the Existing Limited Waiver Agreement will continue in full force and effect in accordance with its provisions on the date of this Amendment. All provisions of the Existing Limited Waiver Agreement shall be deemed to be amended consistent with the terms of this Amendment.

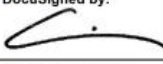
10. **Counterparts.** This Amendment may be executed in any number of counterparts and by different Parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute but one and the same agreement. Any party hereto may execute and deliver a counterpart of this Amendment by delivering by facsimile or other electronic transmission a signature page of this Amendment signed by such party, and any such facsimile or other electronic signature shall be treated in all respects as having the same effect as an original signature.

[signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by their respective officers thereunto duly authorized, as of the date first written above.

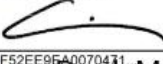
Borrower:

TROIKA MEDIA GROUP, INC., as the Borrower

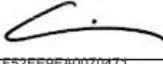
By: 
Name: Derek McKinney
Title: General Counsel

Guarantors:

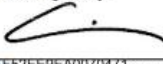
TROIKA DESIGN GROUP, INC., as a Guarantor

By: 
Name: Derek McKinney
Title: General Counsel


TROIKA PRODUCTION GROUP, LLC, as a Guarantor

By: 
Name: Derek McKinney
Title: General Counsel

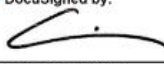
TROIKA-MISSION HOLDINGS, INC., as a Guarantor

By: 
Name: Derek McKinney
Title: General Counsel

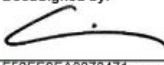
TROIKA IO, INC., as a Guarantor

By: 
Name: Derek McKinney
Title: General Counsel

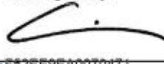
MISSION CULTURE LLC, as a Guarantor

By: 
Name: Derek McKinney
Title: General Counsel

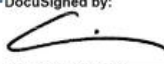
MISSION MEDIA USA, INC., as a Guarantor

By: 
Name: Derek McKinney
Title: General Counsel

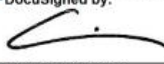
TROIKA SERVICES, INC., as a Guarantor

By: 
Name: Derek McKinney
Title: General Counsel

TROIKA MISSION WORLDWIDE, INC., as a Guarantor

By: 
Name: Derek McKinney
Title: General Counsel

CONVERGE DIRECT, LLC, as a Guarantor

By: 
Name: Derek McKinney
Title: General Counsel

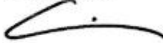
CONVERGE DIRECT INTERACTIVE, LLC, as a Guarantor

By: 
Name: Derek McKinney
Title: General Counsel


CONVERGE MARKETING SERVICES, LLC, as
a Guarantor

By: 
Name: Derek McKinney
Title: General Counsel

LACUNA VENTURES, LLC, as a Guarantor

By: 
Name: Derek McKinney
Title: General Counsel

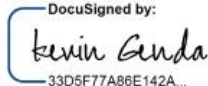
CD ACQUISITION CORP, as a Guarantor

By: 
Name: Derek McKinney
Title: General Counsel

Collateral Agent and Administrative Agent:

BLUE TORCH FINANCE, LLC

By: Blue Torch Capital LP, its managing member

By:  DocuSigned by:
33D5F77A86E142A...
Name: Kevin Genda
Title: Authorized Signatory

Lenders:

BTC HOLDINGS FUND II LLC, as a Lender

By: Blue Torch Credit Opportunities Fund II LP, its sole member

By: Blue Torch Credit Opportunities GP II LLC, its general partner

By: KPG BTC Management LLC, its sole member

By: 
33D5F77A86E142A...
Name: Kevin Genda
Title: Managing Member

BTC OFFSHORE HOLDINGS FUND II-B LLC, as a Lender

By: Blue Torch Offshore Credit Opportunities Master Fund II, LP, its sole member

By: Blue Torch Credit Opportunities GP II LLC, its general partner

By: KPG BTC Management LLC, its sole member

By: 
33D5F77A86E142A...
Name: Kevin Genda
Title: Managing Member

**BTC OFFSHORE HOLDINGS FUND II-C
LLC, as a Lender**

By: Blue Torch Offshore Credit Opportunities
Master Fund II, LP, its sole member

By: Blue Torch Credit Opportunities GP II LLC, its
general partner

By: KPG BTC Management LLC, its sole member

By: 
33D5F77A86E142A...
Name: Kevin Genda
Title: Managing Member

BTC HOLDINGS SBAF FUND LLC, as a Lender

By: Blue Torch Credit Opportunities SBAF Fund
LP, its sole member

By: Blue Torch Credit Opportunities SBAF GP
LLC, its general partner

By: KPG BTC Management LLC, its sole member

By: 
33D5F77A86E142A...
Name: Kevin Genda
Title: Managing Member

BTC HOLDINGS KRS FUND LLC, as a Lender

By: Blue Torch Credit Opportunities KRS Fund LP,
its sole member

By: Blue Torch Credit Opportunities KRS GP LLC,
its general partner

By: KPG BTC Management LLC, its sole member

By: 
Name: Kevin Genda
Title: Managing Member

BTC HOLDINGS SC FUND LLC, as a Lender

By: Blue Torch Credit Opportunities SC Master
Fund LP, its sole member


By: Blue Torch Credit Opportunities SC GP LLC,
its general partner

By: KPG BTC Management LLC, its sole member

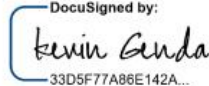
By: 
Name: Kevin Genda
Title: Managing Member

**SWISS CAPITAL BTC OL PRIVATE DEBT
OFFSHORE SP, as a Lender**

A segregated portfolio of Swiss Capital Private
Debt (Offshore) Funds SPC

By: 
Name: Kevin Genda
Title: Authorized Signatory of Blue Torch
Capital LP in its capacity as investment
manager to Swiss Capital BTC OL Private
Debt Offshore SP

**SWISS CAPITAL BTC OL PRIVATE DEBT
FUND L.P., as a Lender**

By: 
Name: Kevin Genda
Title: Authorized Signatory of Blue Torch
Capital LP, as agent and attorney-in-fact for
Swiss Capital BTC OL Private Debt Fund
L.P.

