

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, DC 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): April 13, 2020

Overstock.com, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State of incorporation)

000-49799
(Commission File Number)

87-0634302
(IRS Employer
Identification No.)

799 West Coliseum Way
Midvale, Utah 84047
(Address of principal executive offices, including zip code)

(Registrant's telephone number, including area code): (801) 947-3100

Not Applicable
(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 Stock, \$0.0001 par value	OSTK	NASDAQ Global Market

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR §230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR §240.12b-2).

- 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 9.01 Financial Statements and Exhibits.

Exhibits are filed herewith in connection with the filing of the Prospectus Supplement, dated April 13, 2020, for the dividend of shares the Digital Voting Series A-1 Preferred Stock by Overstock.com, Inc. (the “Company”) pursuant to the Company’s shelf registration statement on Form S-3 (File No. 333-233913) (as amended, the “Registration Statement”).

(d) Exhibits

The following exhibits are filed as part of this Current Report on Form 8-K and Exhibits 5.1, 8.1 and 23.1 are incorporated by reference into the Registration Statement as exhibits thereto:

Exhibit No.	Description of Exhibit
5.1	Validity Opinion of Bryan Cave Leighton Paisner LLP
8.1	Tax Opinion of Bryan Cave Leighton Paisner LLP
23.1	Consents of Bryan Cave Leighton Paisner LLP (included in Exhibit 5.1 and Exhibit 8.1)

SIGNATURE

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.

OVERSTOCK.COM, INC.

Date: April 13, 2020

By: /s/ E. Glen Nickle

Name: E. Glen Nickle

Title: Vice President, Legal and General Counsel



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April 13, 2020

Overstock.com, Inc.
799 W. Coliseum Way
Midvale, Utah 84047

Ladies and Gentlemen:

We have acted as counsel to Overstock.com, Inc., a Delaware corporation (the “Company”), in connection with the filing by the Company with the Securities and Exchange Commission (the “Commission”) under the Securities Act of 1933, as amended (the “Act”), of a prospectus supplement, dated April 13, 2020 (the “Prospectus Supplement”), to the base prospectus, dated April 1, 2020 (the “Base Prospectus”), that forms a part of the registration statement on Form S-3 (Registration No. 333-233913) (the “Registration Statement”) relating to the offer, issuance and distribution of shares of the Company’s Digital Voting Series A-1 Preferred Stock, par value \$0.0001 per share (the “Series A-1 Preferred”). Shares of the Series A-1 Preferred are to be distributed pursuant to a dividend (the “Dividend”) declared by the board of directors of the Company to holders of record, as of the record date for the Dividend, of shares of the Company’s common stock, Series A-1 Preferred and Voting Series B Preferred Stock.

In connection herewith, we have examined:

- (1) the Registration Statement, together with the exhibits thereto;
- (2) the Base Prospectus as supplemented by the Prospectus Supplement (collectively, the “Prospectus”) and the exhibits thereto;
- (3) the Amended and Restated Certificate of Incorporation of the Company;
- (4) the Amended and Restated Certificate of Designation of Digital Voting Series A-1 Preferred Stock of the Company;
- (5) the Amended and Restated Bylaws of the Company;
- (6) certain resolutions duly adopted by the Company’s Board of Directors on July 25, 2019, September 22, 2019, November 21, 2019, December 22, 2019, and April 6, 2020 (collectively, the “Resolutions”).

We have also examined originals or copies, certified or otherwise identified to our satisfaction, of such other corporate records, agreements and instruments of the Company, certificates of public officials and officers of the Company, and such other documents, records and instruments, and we have made such legal and factual inquiries, as we have deemed necessary or appropriate as a basis for us to render the opinions hereinafter expressed. In our examination of the foregoing, we have assumed the genuineness of all signatures, the legal competence and capacity of natural persons, the authenticity of documents submitted to us as originals and the conformity with authentic original documents of all documents submitted to us as copies or by facsimile or other means of electronic transmission, or which we obtained from the Commission’s Electronic Data Gathering, Analysis and Retrieval system (“Edgar”) or other sites maintained by a court or governmental authority or regulatory body and the authenticity of the originals of such latter documents. If any documents we examined in printed, word processed or similar form has been filed with the Commission on Edgar or such court or governmental authority or regulatory body, we have assumed that the document so filed is identical to the document we examined except for formatting changes. When relevant facts were not independently established, we have relied without independent investigation as to matters of fact upon statements of governmental officials and upon representations made in or pursuant to certificates and statements of appropriate representatives of the Company.

Based upon the foregoing and in reliance thereon, and subject to the assumptions, comments, qualifications, limitations and exceptions set forth herein, we are of the opinion that the Series A-1 Preferred to be issued pursuant to the Dividend in accordance with the Prospectus have been duly authorized for issuance, and upon the issuance and delivery of the shares of Series A-1 Preferred, in each case in accordance with the terms of, and as described in, the Prospectus and the Resolutions, the Series A-1 Preferred will be validly issued, fully paid and non-assessable.

In addition to the assumptions, comments, qualifications, limitations and exceptions set forth above, the opinions set forth herein are further limited by, subject to and based upon the following assumptions, comments, qualifications, limitations and exceptions:

(a) For the purposes of this opinion, we have assumed that, at the time of the issuance and delivery of the Series A-1 Preferred in accordance in each case with the Prospectus and the Resolutions: (i) any Series A-1 Preferred being offered will be issued and distributed as contemplated in the Prospectus Supplement (as amended or supplemented); (ii) the authorization thereof by the Company will not have been modified or rescinded; and (iii) the Company's amended and restated certificate of incorporation, including the amended and restated certificate of designation for the Series A-1 Preferred, and amended and restated bylaws, in each case as currently in effect and as applicable, will not have been modified or amended and will be in full force and effect.

(b) Our opinions herein reflect only the application of (i) the General Corporation Law of the State of Delaware (including the statutory provisions and all applicable provisions of the Delaware Constitution and reported judicial decisions interpreting such laws) and (ii) the federal laws of the United States (excluding the federal securities laws, as to which we express no opinion). The opinions set forth herein are made as of the date hereof and are subject to, and may be limited by, future changes in factual matters, and we undertake no duty to advise you of the same. The opinions expressed herein are based upon the law in effect (and published or otherwise generally available) on the date hereof, and we assume no obligation to revise or supplement these opinions should such law be changed by legislative action, judicial decision or otherwise. In rendering our opinions, we have not considered, and hereby disclaim any opinion as to, the application or impact of any laws, cases, decisions, rules or regulations of any other jurisdiction, court or administrative agency.



We do not render any opinions except as set forth above. We hereby consent to the filing of this opinion letter as Exhibit 5 to the Company's Current Report on Form 8-K filed on the date hereof, which will be incorporated by reference into the Registration Statement, and to the use of our name under the caption "Validity of the Securities" in the Prospectus Supplement filed as a part thereof. We also consent to your filing copies of this opinion letter as an exhibit to the Registration Statement with agencies of such jurisdictions as you deem necessary in the course of complying with the laws of such jurisdictions regarding the offering and distribution of the shares of the Series A-1 Preferred. In giving such consent, we do not thereby concede that we are within the category of persons whose consent is required under Section 7 of the Act or the rules and regulations of the Commission thereunder.

Very truly yours,

/s/ Bryan Cave Leighton Paisner LLP

www.bclplaw.com

April 13, 2020

Overstock.com, Inc.
799 W. Coliseum Way
Midvale, UT 84047

Re: Certain United States Federal Income Tax Matters

Ladies and Gentlemen:

We have acted as counsel to Overstock.com, Inc., a Delaware corporation (“Overstock”), in connection with the distribution of its Digital Voting Series A-1 Preferred Stock, par value \$0.0001 per share (the “Series A-1 Preferred Stock”), which shall be payable at a ratio of 1:10, meaning that one share of Series A-1 Preferred Stock will be issued for every ten shares of common stock, ten shares of Series A-1 Preferred Stock, or ten shares of Voting Series B Preferred Stock held by all holders of such shares as of the record date (the “Dividend”). This opinion is being delivered in connection with the registration statement on Form S-3 (Registration No. 333-233913) (the “Registration Statement”) filed by Overstock with the Securities and Exchange Commission under the Securities Act of 1933, as amended, and the filing by Overstock of the Prospectus Supplement, dated April 13, 2020, to the base prospectus, dated April 1, 2020, that forms a part of such Registration Statement on Form S-3 (the “Prospectus”) relating to the offer, issuance and distribution of the Series A-1 Preferred Stock pursuant to the Dividend.

In connection with this opinion, we have examined and are familiar with originals and copies, certified or otherwise identified to our satisfaction, of the (i) Prospectus, (ii) the Amended and Restated Certificate of Designation of the Series A-1 Preferred Stock, (iii) the Amended and Restated Certificate of Designation of the Voting Series B Preferred Stock, and (iv) such other documents as we deem necessary or appropriate in order to enable us to render this opinion. In all our examinations, we have assumed, or will assume, the legal capacity of all natural persons, the genuineness of all signatures, the authenticity of all documents submitted to us as originals, and the conformity to original documents of all documents submitted to us as copies or drafts.

In rendering our opinion, we have assumed, with your permission, that (i) the Dividend will be effected in accordance with the Prospectus, and (ii) the information set forth in the Prospectus and the statements concerning the Dividend therein are true, complete and correct and will remain true, complete and correct at all times up to and including the Payment Date (as defined in and contemplated by the Prospectus).

In rendering our opinion, we have considered the applicable provisions of (i) the Internal Revenue Code of 1986, as amended to the date hereof (the “Code”) as in effect on the date hereof, and our interpretations of the Code, (ii) the applicable Treasury Regulations promulgated under the Code and as currently in effect (the “Regulations”), (iii) current administrative interpretations by the Internal Revenue Service of the Code and the Regulations as they apply to reorganizations, and (iv) existing judicial decisions, all of which are subject to change or modification at any time (possibly with retroactive effect) and such other authorities as we have considered relevant.

Based upon and subject to the qualifications, assumptions and limitations set forth herein and in such discussion, the statements of law and legal conclusions contained in the Prospectus under the heading “Material U.S. Federal Income Tax Consequences,” constitute our opinion as to the material U.S. federal income tax consequences of the receipt of the Series A-1 Preferred Stock pursuant to the Dividend and the ownership, conversion and disposition of the Series A-1 Preferred Stock.



The foregoing opinion reflects our best professional judgment as to the correct United States federal income tax consequences of the matters that it addresses. Our opinion is expressly conditioned on, among other things, the accuracy of all such facts, information, statements and representations as of the date hereof. Any material change in the law, authorities, or facts referred to, set forth, relied upon or assumed herein, or in the transaction documents could affect the conclusions stated herein. This opinion is expressed as of the date hereof, and we are under no obligation to supplement or revise our opinion to reflect any changes (including changes that have retroactive effect) (i) in applicable law or (ii) that would cause any statement, representation or assumption herein to no longer be true or correct.

Except as set forth above, we express no opinion as to the tax consequences, whether federal, state, local or foreign, of the Dividend or any transaction related thereto or contemplated thereby. We consent to the filing of this opinion as an exhibit to Overstock's Current Report on Form 8-K filed on the date hereof, which will be incorporated by reference into the Registration Statement, and to the reference to Bryan Cave Leighton Paisner LLP under the heading "Material U.S. Federal Tax Income Consequences" in the Prospectus. This opinion is expressed as of the date hereof, and we are under no obligation to advise you of, supplement, or revise our opinion to reflect, any changes (including changes that have retroactive effect) in applicable law or any information, document, certificate, record, statement, representation, covenant or assumption relied upon herein that becomes incorrect or untrue.

Very truly yours,

/s/ BRYAN CAVE LEIGHTON PAISNER LLP
