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

FORM S-8
REGISTRATION STATEMENT
Under
The Securities Act of 1933

OVERSTOCK.COM, INC.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of incorporation or organization)

87-0634302

(I.R.S. Employer Identification Number)

**799 W. Coliseum Way
Midvale, Utah 84047**

(Address of principal executive offices, including zip code)

Overstock.com, Inc. Amended and Restated 2005 Equity Incentive Plan
(Full title of the plan)

**E. Glen Nickle
Vice President, Legal, and General Counsel
Overstock.com, Inc.
799 West Coliseum Way
Midvale, Utah 84047
(801) 947-3100**

(Name, address, including zip code, and telephone number, including area code, of agent for service)

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act. (check one):

Large accelerated filer

Non-accelerated filer

(Do not check if a smaller reporting company)

Accelerated filer

Smaller reporting company

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 7(a)(2)(B) of the Securities Act.

EXPLANATORY NOTE

This Registration Statement on Form S-8 is being filed for the purpose of registering an additional 4,055,000 shares of the Company's Common Stock offered or deemed to be offered pursuant to the Company's Amended and Restated 2005 Equity Incentive Plan (the "Plan"). In accordance with General Instruction E to Form S-8, the contents of the Company's Form S-8 Registration Statements filed with the Securities and Exchange Commission on April 1, 2015 (Commission File No. 333-203175), May 15, 2012 (Commission File No. 333-181422), October 26, 2009 (Commission File No. 333-162674), and April 29, 2005 (Commission File No. 333-124441) relating to the Plan are incorporated herein by reference, except to the extent supplemented, amended or superseded by the information set forth herein.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

The documents containing the information specified in Part I will be sent or given to participants in the Plan as specified by Rule 428(b).

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference

The following documents, which have previously been filed (and not furnished) by the Registrant with the Securities and Exchange Commission (the "Commission") are incorporated by reference herein and shall be deemed to be a part hereof:

(a) The Registrant's latest [Annual Report on Form 10-K for the fiscal year ended December 31, 2022](#), as filed with the Commission on February 24, 2023, and [the Amended Annual Report on Form 10-K/A for the fiscal year ended December 31, 2022](#), as filed with the Commission on July 3, 2023 (together, the "Annual Report");

(b) The Registrant's Quarterly Reports on Form 10-Q [for the quarter ended March 31, 2023, as filed with the Commission on May 2, 2023](#), and [for the quarter ended June 30, 2023, as filed with the Commission on July 31, 2023](#);

(c) The Registrant's Current Reports on Form 8-K as filed with the Commission on [January 25, 2023](#), [March 2, 2023](#) (to the extent filed with the Commission), [March 24, 2023](#) (to the extent filed with the Commission), [May 23, 2023](#), [June 13, 2023](#) and [June 28, 2023](#);

(d) All other reports filed (and not furnished) pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), since the end of the fiscal year covered by the Annual Report; and

(e) The description of the Registrant's Common Stock, \$0.0001 par value, contained in the Registration Statement on [Form 8-A filed May 6, 2002](#), including any amendment or report filed with the Commission for the purpose of updating such description.

In addition, all documents subsequently filed (and not furnished) by the Registrant pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act prior to the filing of a post-effective amendment to this Registration Statement which indicates that all securities offered hereby have been sold or which deregisters all such securities then remaining unsold, shall be deemed to be incorporated by reference in this Registration Statement and made part hereof from their respective dates of filing (such documents and the documents listed above (other than any document furnished to the Commission), being hereinafter referred to as "Incorporated Documents"). Any statements contained in a previously filed document incorporated by reference into this Registrant Statement is deemed to be modified or superseded for purposes of this Registrant Statement to the extent that a statement contained in this Registrant Statement, or in a subsequently filed document also incorporated by reference herein, modifies or supersedes that statement.

This Registration Statement may contain information that updates, modifies or is contrary to information in one or more of the Incorporated Documents. You should not assume that the information in this Registration Statement is accurate as of any date other than the date of this Registration Statement or the date of the Incorporated Document.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

Not applicable.

Item 6. Indemnification of Directors and Officers

The following summary is qualified in its entirety by reference to the General Corporation Law of the State of Delaware (the "Delaware General Corporation Law"), our amended and restated certificate of incorporation, our amended and restated bylaws, and the agreements referred to below.

Section 145 of the Delaware General Corporation Law empowers a corporation to indemnify its directors and officers and to purchase insurance with respect to liability arising out of their capacity or status as directors and officers, provided that the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action, had no reasonable cause to believe the person's actions were unlawful. The Delaware General Corporation Law further provides that the indemnification permitted thereunder shall not be deemed exclusive of any other rights to which the directors and officers may be entitled under the corporation's amended and restated bylaws, any agreement, a vote of stockholders or otherwise.

Our amended and restated certificate of incorporation provides that we shall indemnify to the fullest extent permitted by law, as then or thereafter in effect, any person made or threatened to be made a party to an action or proceeding, whether criminal, civil, administrative or investigative, by reason of the fact that he, his testator or intestate is or was a director or officer of the Registrant or any predecessor of the Registrant or serves or served at any other enterprise as a director, officer, employee or agent at the request of the Registrant or any predecessor to the Registrant and such right to indemnification shall continue as to a person who has ceased to be a director or officer of the Registrant and shall inure to the benefit of his or her heirs, executors and personal and legal representatives; provided, however, that, except for proceedings to enforce rights to indemnification, the Registrant shall not be obligated to indemnify any director or officer (or his or her heirs, executors or personal or legal representatives) in connection with a proceeding (or part thereof) initiated by such person unless such proceeding (or part thereof) was authorized or consented to by our board of directors. The right to indemnification conferred by the foregoing provision shall include the right to be paid by the Registrant the expenses incurred in defending or otherwise participating in any proceeding in advance of its final disposition. Our amended and restated certificate of incorporation further provides that we may indemnify to the fullest extent permitted by law, as now or thereafter in effect, any person made or threatened to be made a party to an action or proceeding, whether criminal, civil, administrative or investigative, by reason of the fact that he, his testator or intestate is or was an employee or agent of the Registrant or any predecessor of the Registrant or serves or served at any other enterprise as a director, officer, employee or agent at the request of the Registrant or any predecessor to the Registrant. The rights to indemnification and to the advancement of expenses conferred by the foregoing provision shall not be exclusive of any other right which any person may have or acquire under the amended and restated certificate of incorporation as amended from time to time, the amended and restated bylaws of the Registrant, as amended from time to time, any statute, agreement, vote of the stockholders of the Registrant or disinterested directors of the Registrant or otherwise. The amended and restated certificate of incorporation further provides that neither any amendment nor repeal of any section of the article dealing with indemnification, nor the adoption of any provision of the amended and restated certificate of incorporation inconsistent with such article, shall adversely affect any right or protection of any director or officer established pursuant to such article existing at the time of such amendment, repeal or adoption of an inconsistent provision, including without limitation by eliminating or reducing the effect of such article, for or in respect of any act, omission or other matter occurring, or any action or proceeding accruing or arising (or that, but for such article, would accrue or arise) prior to such amendment, repeal or adoption of an inconsistent provision.

Our amended and restated bylaws provide, among other provisions relating to indemnification and related matters, that:

- (1) subject to the provisions described in (3) below, the Registrant shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Registrant) by reason of the fact that such person is or was a director or officer of the Registrant, or is or was a director or officer of the Registrant serving at the request of the Registrant as a director or officer, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Registrant, and, with respect to any criminal action or proceeding, had no reasonable cause to believe such person's conduct was unlawful; and that the termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the Registrant, and, with respect to any criminal action or proceeding, had reasonable cause to believe that such person's conduct was unlawful;
- (2) subject to the provisions described in (3) below, the Registrant shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Registrant to procure a judgment in its favor by reason of the fact that such person is or was a director or officer of the Registrant, or is or was a director or officer of the Registrant serving at the request of the Registrant as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Registrant; except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the Registrant unless and only to the extent that the Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper;
- (3) any indemnification under the provisions described above (unless ordered by a court) shall be made by the Registrant only as authorized in the specific case upon a determination that indemnification of the director or officer is proper in the circumstances because such person has met the applicable standard of conduct described above. Such determination shall be made, with respect to a person who is a director or officer at the time of such determination, (a) by a majority vote of the directors who are not parties to such action, suit or proceeding, even though less than a quorum, or (b) by a committee of such directors designated by a majority vote of such directors, even though less than a quorum, or (c) if there are no such directors, or if such directors so direct, by independent legal counsel in a written opinion or (d) by the stockholders (but only if a majority of the directors who are not parties to such action, suit or proceeding, if they constitute a quorum of the board of directors, presents the issue of entitlement to indemnification to the stockholders for their determination). Any person or persons having the authority to act on the matter on behalf of the Registrant shall make such determination, with respect to former directors and officers. To the extent, however, that a present or former director or officer of the Registrant has been successful on the merits or otherwise in defense of any action, suit or proceeding described above, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith, without the necessity of authorization in the specific case;

- (4) for purposes of any determination under the provisions in (3) described above, a person shall be deemed to have acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Registrant, or, with respect to any criminal action or proceeding, to have had no reasonable cause to believe such person's conduct was unlawful, if such person's action is or was based on the records or books of account of the Registrant or another enterprise, or on information supplied to such person by the officers of the Registrant or another enterprise in the course of their duties, or on the advice of legal counsel for the Registrant or another enterprise or on information or records given or reports made to the Registrant or another enterprise by an independent certified public accountant or by an appraiser or other expert selected with reasonable care by the Registrant or another enterprise. The term "another enterprise" as used in this subparagraph (4) means any other corporation or any partnership, joint venture, trust, employee benefit plan or other enterprise of which such person is or was serving at the request of the Registrant as a director, officer, employee or agent. The amended and restated bylaws further provide that the provisions described herein shall not be deemed to be exclusive or to limit in any way the circumstances in which a person may be deemed to have met the applicable standard of conduct in (2) or (3) described above, as the case may be;
- (5) notwithstanding any contrary determination in the specific case under the provisions described in subparagraph (3) above, and notwithstanding the absence of any determination thereunder, any director or officer may apply to the Court of Chancery in the State of Delaware for indemnification to the extent otherwise permissible under the provisions described in subparagraphs (1) and (2) above. The basis of such indemnification by a court shall be a determination by such court that indemnification of the director or officer is proper in the circumstances because such person has met the applicable standards of conduct under the provisions described in subparagraphs (1) and (2) above. Neither a contrary determination in the specific case under the provisions described in subparagraph (3) above nor the absence of any determination thereunder shall be a defense to such application or create a presumption that the director or officer seeking indemnification has not met any applicable standard of conduct. Notice of any application for indemnification pursuant to the provisions described in this subparagraph (5) is required to be given to the Registrant promptly upon the filing of such application. If successful, in whole or in part, the director or officer seeking indemnification shall also be entitled to be paid the expense of prosecuting such application;
- (6) expenses incurred by a director or officer in defending any civil, criminal, administrative or investigative action, suit or proceeding shall be paid by the Registrant in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such director or officer to repay such amount if it shall ultimately be determined that such person is not entitled to be indemnified by the Registrant as authorized by the amended and restated bylaws; and
- (7) the indemnification and advancement of expenses provided by or granted pursuant to the provisions of the amended and restated bylaws described above shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under our amended and restated certificate of incorporation, any other bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office, it being the policy of the Registrant that indemnification of the persons described in subparagraphs (1) and (2) above shall be made to the fullest extent permitted by law.

Section 102(b)(7) of the Delaware General Corporation Law permits a corporation to provide in its certificate of incorporation that a director of the corporation shall not be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except (1) for any breach of the director's duty of loyalty to the corporation or its stockholders, (2) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (3) for payments of unlawful dividends or unlawful stock repurchases or redemptions or (4) for any transaction from which the director derived an improper personal benefit. Our amended and restated certificate of incorporation provides that, to the fullest extent permitted by the Delaware General Corporation Law, as the same existed or may be amended, our directors shall not be personally liable to us or our stockholders for monetary damages for breach of fiduciary duty as a director.

As permitted by the Delaware General Corporation Law, we have entered into separate indemnification agreements with each of our directors and certain of our officers which require us, among other things, to indemnify them against certain liabilities which may arise by reason of their status as directors, officers or certain other employees.

We have obtained and expect to maintain insurance policies under which our directors and officers are insured, within the limits and subject to the limitations of those policies, against certain expenses in connection with the defense of, and certain liabilities which might be imposed as a result of, actions, suits or proceedings to which they are parties by reason of being or having been directors or officers. The coverage provided by these policies may apply whether or not we would have the power to indemnify such person against such liability under the provisions of the Delaware General Corporation Law.

These indemnification provisions and the indemnification agreements entered into between us and our officers and directors may be sufficiently broad to permit indemnification of our officers and directors for liabilities (including reimbursement of expenses incurred) arising under the Securities Act.

Item 7. Exemption from Registration Claimed.

Not Applicable.

Item 8. Exhibits.

Exhibit Number	Description of Document
4.1	Amended and Restated Certificate of Incorporation (incorporated by reference to Exhibit 3.1 to the Registrant's Quarterly Report on Form 10-Q (File No. 000-49799) filed on July 29, 2014).
4.2	Second Amended and Restated Bylaws (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K (File No. 000-49799) filed on August 12, 2022).
4.3	Certificate of Elimination for Blockchain Voting Series A Preferred Stock of Overstock.com, Inc. (incorporated by reference to Exhibit 3.2 to the Registrant's Current Report on Form 8-K (File No. 000-49799) filed on July 30, 2019).
4.4	Amended and Restated Certificate of Designation of Digital Voting Series A-1 Preferred Stock of Overstock.com, Inc. (incorporated by reference to Exhibit 3.1 to the Registrant's Quarterly Report on Form 10-Q (File No. 000-49799) filed on May 7, 2020).
4.5	Certificate of Amendment of the Amended and Restated Certificate of Designation of Digital Voting Series A-1 Preferred Stock of Overstock.com, Inc. (incorporated by reference to Exhibit 3.1 to the Registrant's Current Report on Form 8-K (File No. 000-49799) filed on June 14, 2022).
4.6	Certificate of Elimination of the Amended and Restated Certificate of Designation of Digital Voting Series A-1 Preferred Stock of Overstock.com, Inc. (incorporated by reference to Exhibit 3.3 to the Registrant's Current Report on Form 8-K (File No. 000-49799) filed on June 14, 2022).
4.7	Amended and Restated Certificate of Designation for the Voting Series B Preferred Stock of Overstock.com, Inc. (incorporated by reference to Exhibit 3.2 to the Registrant's Quarterly Report on Form 10-Q (File No. 000-49799) filed on May 7, 2020).
4.8	Certificate of Amendment of the Amended and Restated Certificate of Designation of Voting Series B Preferred Stock of Overstock.com, Inc. (incorporated by reference to Exhibit 3.2 to the Registrant's Current Report on Form 8-K (File No. 000-49799) filed on June 14, 2022).
4.9	Certificate of Elimination of the Amended and Restated Certificate of Designation of Voting Series B Preferred Stock of Overstock.com, Inc. (incorporated by reference to Exhibit 3.4 to the Registrant's Current Report on Form 8-K (File No. 000-49799) filed on June 14, 2022).
4.10	Form of specimen common stock certificate (incorporated by reference to Exhibit 4.1 to the Registrant's Registration Statement on Form S-1 (File No. 333-83728).

4.11	Overstock.com, Inc. Amended and Restated 2005 Equity Incentive Plan (incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K (File No. 000-49799) filed on May 23, 2023).
5.1*	Opinion of Bryan Cave Leighton Paisner LLP.
23.1*	Consent of KPMG LLP.
23.2*	Consent of KPMG LLP related to financial statements of Medici Ventures, L.P.
23.3*	Consent of Ernst & Young related to financial statements of Medici Ventures, L.P.
23.4*	Consent of Baker Tilly related to financial statements of tZERO Group, Inc.
23.5*	Consent of Bryan Cave Leighton Paisner LLP (contained in Exhibit 5.1).
24.1*	Powers of Attorney (included on signature page).
107*	Filing Fee Table.

*Filed herewith

Item 9. Undertakings.

(a) The undersigned Registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

(A) To include any prospectus required by Section 10(a)(3) of the Securities Act;

(B) To reflect in the prospectus any facts or events arising after the effective date of the Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the Registration Statement; and

(C) To include any material information with respect to the plan of distribution not previously disclosed in the Registration Statement or any material change to such information in the Registration Statement;

Provided, however, that paragraphs (a)(1)(A) and (a)(1)(B) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Commission by the Registrant pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference in this Registration Statement.

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in the Registration Statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question of whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this registration statement on Form S-8 to be signed on its behalf by the undersigned, thereunto duly authorized in Midvale, Utah, on August 4, 2023.

OVERSTOCK.COM, INC.

By: /s/ Jonathan E. Johnson III

Name: Jonathan E. Johnson III

Title: *Chief Executive Officer*
(principal executive officer)

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints each of Jonathan E. Johnson III and E. Glen Nickle, each of them acting individually, as his or her true and lawful attorney-in-fact and agent with full powers of substitution and resubstitution, to act for him or her and in his or her name, place and stead, in any and all capacities, to sign any and all amendments to this registration statement (including post-effective amendments), and any other documents in connection therewith, and to file the same, with all exhibits thereto, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents the full power and authority to do and perform each and every act and thing requisite and necessary to be done in in connection therewith, as fully for all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or his or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act, this registration statement has been signed by the following persons in the capacities and on the dates indicated:

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Jonathan E. Johnson III</u> Jonathan E. Johnson III	Chief Executive Officer (Principal Executive Officer) and Director	August 4, 2023
<u>/s/ Adrienne B. Lee</u> Adrienne Lee	Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)	August 4, 2023
<u>/s/ Allison H. Abraham</u> Allison H. Abraham	Chairwoman of the Board	August 4, 2023
<u>/s/ Joanne C. Burkey</u> Joanna C. Burkey	Director	August 4, 2023
<u>/s/ Barclay F. Corbus</u> Barclay F. Corbus	Director	August 4, 2023
<u>/s/ Barbara Messing</u> Barbara Messing	Director	August 4, 2023
<u>/s/ William B. Nettles, Jr.</u> William B. Nettles, Jr.	Director	August 4, 2023
<u>/s/ Robert J. Shapiro</u> Robert J. Shapiro	Director	August 4, 2023
<u>/s/ Joseph J. Tabacco, Jr.</u> Joseph J. Tabacco, Jr.	Director	August 4, 2023



BRYAN CAVE LEIGHTON PAISNER LLP
One Metropolitan Square
211 North Broadway Suite 3600
St Louis MO 63102
T: +1 314 259 2000
F: +1 314 259 2020
www.bclplaw.com

August 4, 2023

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

Ladies and Gentlemen:

We have acted as special counsel to Overstock.com, Inc., a Delaware corporation (the “Company”), in connection with a Registration Statement on Form S-8 (the “Registration Statement”), being filed by the Company on the date hereof with the Securities and Exchange Commission (the “Commission”) under the Securities Act of 1933, as amended (the “Act”), relating to the registration of an aggregate of 4,055,000 additional shares of common stock, par value \$0.0001 per share (the “Shares”), which may be issued pursuant to the Amended and Restated 2005 Equity Incentive Plan (the “Plan”).

In connection herewith, we have examined:

- (1) the Registration Statement;
 - (2) the Plan, as amended to date;
 - (3) the Amended and Restated Certificate of Incorporation of the Company;
 - (4) the Amended and Restated Bylaws of the Company; and
 - (5) certain resolutions duly adopted by the Compensation Committee of the Company’s Board of Directors and by the Company’s Board of Directors on February 2, 2020, March 3, 2022, November 9, 2022 and March 30, 2023.
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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, statements and 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 Shares have been duly authorized for issuance and upon issuance and delivery of the Shares upon payment therefor, in accordance with the terms of the Plan, and any relevant agreements thereunder, the Shares will be validly issued, fully paid and non-assessable.

Our opinions herein reflect only the application of the General Corporation Law of the State of Delaware. 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.

We do not render any opinions except as set forth above. We hereby consent to the filing of this opinion letter as Exhibit 5.1 to the Registration Statement, and to the reference to this firm in the Registration Statement. 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 sale of the Shares. 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

Consent of Independent Registered Public Accounting Firm

We consent to the use of our reports dated February 24, 2023, with respect to the consolidated financial statements of Overstock.com, Inc., and the effectiveness of internal control over financial reporting, incorporated herein by reference.

/s/ KPMG LLP

Salt Lake City, Utah
August 4, 2023

Consent of Independent Auditors

We consent to the use of our report dated February 15, 2022, with respect to the financial statements of Medici Ventures, L.P., incorporated herein by reference.

/s/ KPMG LLP

Salt Lake City, Utah
August 4, 2023

Consent of Independent Auditors

We consent to the incorporation by reference in the Registration Statement pertaining to the Overstock.com, Inc. Amended and Restated 2005 Equity Incentive Plan, of our report dated February 14, 2023, with respect to the financial statements of Medici Ventures, L.P., included in the Annual Report (Form 10-K) of Overstock.com, Inc., for the year ended December 31, 2022, filed with the Securities and Exchange Commission.

/s/ Ernst & Young LLP

Salt Lake City, Utah
August 4, 2023

Consent of Independent Auditors

We consent to the incorporation by reference in this Registration Statement on Form S-8 (No. 333-xxxxxx) of Overstock.com, Inc. of our report dated July 3, 2023 with respect to the consolidated financial statements of tZERO Group, Inc.

/s/ Baker Tilly US, LLP

New York, New York
August 4, 2023

CALCULATION OF FILING FEE TABLE

Form S-8
(Form Type)Overstock.com, Inc.
(Exact Name of Registrant as Specified in its Charter)

Table 1: Newly Registered Securities

Security Type	Security class title	Fee calculation rule	Amount registered ⁽¹⁾	Proposed maximum offering price per share ⁽²⁾	Maximum aggregate offering price ⁽²⁾	Fee rate	Amount of registration fee
Equity	Common Stock, \$0.0001 par value per share	Other ⁽²⁾	4,055,000	\$35.07	\$142,208,850.00	0.0001102	\$15,671.42
Total Offering Amounts					\$142,208,850.00		\$15,671.42
Total Fee Offsets							—
Net Fee Due							\$15,671.42

(1) This registration statement covers (i) 4,055,000 additional shares of common stock, no par value per share (the “Common Stock”), of Overstock.com, Inc. (the “Registrant”) to be registered under the Overstock.com, Inc. Amended and Restated 2005 Equity Incentive Plan (the “Plan”), and (ii) pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the “Securities Act”), this Registration Statement shall also cover any additional shares of the Registrant’s Common Stock which become issuable under the Plan to prevent dilution resulting from stock splits, stock dividends, or similar transactions.

(2) Estimated in accordance with Rules 457(c) and 457(h) under the Securities Act solely for the purpose of calculating the registration fee. The computation is based upon the average of high and low prices of the Common Stock on the Nasdaq Global Market on August 4, 2023, which was \$35.07.