

Marathon Patent Group, Inc.
Form PRE 14A
October 15, 2018

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14A

Proxy Statement Pursuant to Section 14(a) of
the Securities Exchange Act of 1934

Filed by the Registrant
Filed by a Party other than the Registrant
Check the appropriate box:

- Preliminary Proxy Statement
- Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))**
- Definitive Proxy Statement
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Marathon Patent Group, Inc.

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):
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(1) Amount Previously Paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

Marathon Patent Group, Inc.

1180 N. Town Center Drive, Suite 100

Las Vegas, NV 89144

October __, 2018

To the Shareholders of Marathon Patent Group, Inc.:

You are cordially invited to attend the 2018 Annual Meeting of Shareholders (the “Annual Meeting”) of Marathon Patent Group, Inc., a Nevada corporation (the “Company”), to be held at _____ local time on _____, 2018, at the Company’s offices at 1180 N. Town Center Drive, Suite 100, Las Vegas, Nevada 89144 to consider and vote upon the following proposals:

1. To elect two Class I directors for a three-year term expiring in 2021.
2. To elect two Class II directors to fill certain vacancies for a term expiring upon expiration of the current term for Class II directors in 2019.
3. To grant the Board of Directors the discretionary authority to effect a reverse stock split (the “Reverse Split Proposal”) of the Company’s common stock.

To approve the issuance of securities in one or more non-public offerings where the maximum discount at which securities will be offered will be equivalent to a discount of 20% below the market price of our common stock, as required by and in accordance with Nasdaq Marketplace Rule 5635(d).

To approve any change of control that could result from the potential issuance of securities in the non-public offerings following approval of Proposal No. 4, as required by and in accordance with Nasdaq Marketplace Rule 5635(b).

To approve an amendment to the Company’s 2018 Equity Incentive Plan to eliminate the performance-based compensation exception to the deductibility limitations under Section 162(m) of the Internal Revenue Code and to include any individual who was our then current or former named executive officers as a “covered employee,” such that payments to former employees will be subject to the deduction limitations thereunder.

The ratification of the appointment of RBSM, LLP, as the Company’s independent registered certified public accountant for the fiscal year ended December 31, 2018.

8.

To transact such other business as may be properly brought before the 2018 Annual Meeting and any adjournments thereof.

THE BOARD OF DIRECTORS OF THE COMPANY UNANIMOUSLY RECOMMENDS A VOTE “FOR” APPROVAL OF THE ABOVE EIGHT PROPOSALS.

Pursuant to the provisions of the Company’s bylaws, the board of directors of the Company (the “Board”) has fixed the close of business on _____, 2018 as the record date for determining the shareholders of the Company entitled to notice of, and to vote at, the Annual Meeting or any adjournment thereof. Accordingly, only shareholders of record at the close of business on _____, 2018 are entitled to notice of, and shall be entitled to vote at, the Annual Meeting or any postponement or adjournment thereof.

Please review in detail the attached notice and proxy statement for a more complete statement of matters to be considered at the Annual Meeting.

Your vote is very important to us regardless of the number of shares you own. Whether or not you are able to attend the Annual Meeting in person, please read the proxy statement and promptly vote your proxy via the internet, by telephone or, if you received a printed form of proxy in the mail, by completing, dating, signing and returning the enclosed proxy in order to assure representation of your shares at the Annual Meeting. Granting a proxy will not limit your right to vote in person if you wish to attend the Annual Meeting and vote in person.

By Order of the Board of Directors:

/s/ Merrick D. Okamoto
Merrick D. Okamoto,
Chairman of the Board of Directors

NOTICE OF ANNUAL MEETING OF SHAREHOLDERS

The 2018 annual meeting of shareholders (the “Annual Meeting”) of Marathon Patent Group, Inc. (the “Company”) will be held at the Company’s offices at 1180 N. Town Center Drive, Suite 100, Las Vegas, Nevada 89144, on _____, 2018, beginning at _____ local time. At the Annual Meeting, the holders of the Company’s outstanding common stock will act on the following matters:

1. To elect two Class I directors for a three-year term expiring in 2021.
2. To elect two Class II directors to fill certain vacancies for a term expiring upon expiration of the current term for Class II directors in 2019.
3. To grant the Board of Directors the discretionary authority to effect a reverse stock split (the “Reverse Split Proposal”) of the Company’s common stock.

To approve the issuance of securities in one or more non-public offerings where the maximum discount at which securities will be offered will be equivalent to a discount of 20% below the market price of our common stock, as required by and in accordance with Nasdaq Marketplace Rule 5635(d).

To approve any change of control that could result from the potential issuance of securities in the non-public offerings following approval of Proposal No. 4, as required by and in accordance with Nasdaq Marketplace Rule 5.5635(b).

To approve an amendment to the Company’s 2018 Equity Incentive Plan to eliminate the performance-based compensation exception to the deductibility limitations under Section 162(m) of the Internal Revenue Code and to include any individual who was our then current or former named executive officers as a “covered employee,” such that payments to former employees will be subject to the deduction limitations thereunder.

The ratification of the appointment of RBSM, LLP, as the Company’s independent registered certified public accountant for the fiscal year ended December 31, 2018.

To transact such other business as may be properly brought before the Annual Meeting and any adjournments thereof.

Shareholders of record at the close of business on _____, 2018 are entitled to notice of and to vote at the 2018 Annual Meeting and any postponements or adjournments thereof.

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It is hoped you will be able to attend the 2018 Annual Meeting, but in any event, please vote according to the instructions on the enclosed proxy as promptly as possible. If you are able to be present at the 2018 Annual Meeting, you may revoke your proxy and vote in person.

Dated: _____, 2018 By Order of the Board of Directors:

/s/ Merrick D. Okamoto
Merrick D. Okamoto,
Chairman of the Board of Directors

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MARATHON PATENT GROUP, INC.

1180 N. Town Center Drive, Suite 100

Las Vegas, NV 89144

ANNUAL MEETING OF SHAREHOLDERS

To Be Held _____, 2018

PROXY STATEMENT

The Board of Directors of Marathon Patent Group, Inc. (the “Company”) is soliciting proxies from its shareholders to be used at the 2018 annual meeting of shareholders (the “Annual Meeting”) to be held at the Company’s offices at 1180 N. Town Center Drive, Suite 100, Las Vegas, Nevada 89144, on _____, 2018, beginning at _____ local time. and at any postponements or adjournments thereof. This proxy statement contains information related to the Annual Meeting. This proxy statement and the accompanying form of proxy are first being sent to shareholders on or about _____, 2018.

ABOUT THE ANNUAL MEETING

Why am I receiving this proxy statement?

You are receiving this proxy statement because you have been identified as a shareholder of the Company as of the record date which our Board has determined to be November __, 2018, and thus you are entitled to vote at the Company’s 2018 Annual Meeting. This document serves as a proxy statement used to solicit proxies for the 2018 Annual Meeting. This document and the Appendixes hereto contain important information about the 2018 Annual Meeting and the Company and you should read it carefully.

Who is entitled to vote at the 2018 Annual Meeting?

Only shareholders of record as of the close of business on the record date will be entitled to vote at the 2018 Annual Meeting. As of the close of business on the record date, there were 25,519,940 shares of our common stock issued and outstanding and entitled to vote. Each common stock shareholder is entitled to one vote for each share of our common stock held by such shareholder on the record date on each of the proposals presented in this proxy statement.

May I vote in person?

If you are a shareholder of the Company and your shares are registered directly in your name with the Company's transfer agent, Equity Stock Transfer, you are considered, with respect to those shares, the shareholder of record, and the proxy materials and proxy card are being sent directly to you by the Company. If you are a shareholder of record, you may attend the 2018 Annual Meeting to be held on _____, and vote your shares in person, rather than signing and returning your proxy.

If your shares of common stock are held by a bank, broker or other nominee, you are considered the beneficial owner of shares held in "street name," and the proxy materials are being forwarded to you together with a voting instruction card by such bank, broker or other nominee. As the beneficial owner, you are also invited to attend the 2018 Annual Meeting. Since a beneficial owner is not the shareholder of record, you may not vote these shares in person at the 2018 Annual Meeting unless you obtain a proxy from your broker issued in your name giving you the right to vote the shares at the 2018 Annual Meeting.

Photo identification may be required (a valid driver's license, state identification or passport). If a shareholder's shares are registered in the name of a broker, trust, bank or other nominee, the shareholder must bring a proxy or a letter from that broker, trust, bank or other nominee or their most recent brokerage account statement that confirms that the shareholder was a beneficial owner of shares of stock of the Company as of the Record Date. Since seating is limited, admission to the meeting will be on a first-come, first-served basis.

Cameras (including cell phones with photographic capabilities), recording devices and other electronic devices will not be permitted at the meeting.

If my Company shares are held in “street name” by my broker, will my broker vote my shares for me?

Generally, if shares are held in street name, the beneficial owner of the shares is entitled to give voting instructions to the broker or nominee holding the shares. If the beneficial owner does not provide voting instructions, the broker or nominee can still vote the shares with respect to matters that are considered to be “*routine*,” but not with respect to “*non-routine*” matters, as discussed further below. Your broker will not be able to vote your shares of common stock without specific instructions from you for “non-routine” matters.

If your shares are held by your broker or other agent as your nominee, you will need to obtain a proxy form from the institution that holds your shares and follow the instructions included on that form regarding how to instruct your broker or other agent to vote your shares.

What are “broker non-votes”?

If you hold shares beneficially in street name and do not provide your broker with voting instructions, your shares may constitute “broker non-votes.” “Broker non-votes” occur on a matter when a broker is not permitted to vote on that matter without instructions from the beneficial owner and instructions are not given. These matters are referred to as “non-routine” matters. Since brokers are permitted to vote on “routine” matters without instructions from the beneficial owner, “broker non-votes” do not occur with respect to “routine” matters.

Proposal 1 to elect two Class I directors, Proposal 2 to elect two Class II directors, Proposal 4, to approve the issuance of securities in one or more non-public offerings where the maximum discount at which securities will be offered will be equivalent to a discount of 20% below the market price of our common stock, as required by and in accordance with Nasdaq Marketplace Rule 5635(d), Proposal 5, to approve any change of control that could result from the potential issuance of securities in the non-public offerings following approval of Proposal No. 4, as required by and in accordance with Nasdaq Marketplace Rule 5635(b), Proposal 6, to approve an amendment to the Company’s 2018 Equity Incentive Plan to eliminate the performance-based compensation exception to the deductibility limitations under Section 162(m) of the Internal Revenue Code and to include any individual who was our then current or former named executive officers as a “covered employee,” such that payments to former employees will be subject to the deduction limitations thereunder and Proposal 8 to transact such other business as may be properly brought before the 2018 Annual Meeting and any adjournments thereof are “non-routine matters.”

Proposal 3 to grant the Board of Directors the discretionary authority to effect a reverse stock split (the “Reverse Split Proposal”) of the Company’s common stock and Proposal 7 to ratify the appointment of RBSM, LLP, as the Company’s independent registered certified public accountant for the fiscal year ended December 31, 2018, are “routine” matters.

The determination of “routine” and “non-routine” matters is determined by brokers and those firms responsible to tabulate votes cast by beneficial owners of shares held in street name and other nominees. Firms casting such votes have generally been guided by rules of the New York Stock Exchange when determining if proposals are considered “routine” or “non-routine”. When a matter to be voted on is the subject of a contested solicitation, banks, brokers and other nominees do not have discretion to vote your shares with respect to any proposal to be voted on.

How do I cast my vote if I am a shareholder of record?

If you are a shareholder with shares registered in your name with the Company's transfer agent, Equity Stock Transfer, on the record date, you may vote in person at the 2018 Annual Meeting or vote by proxy by telephone or internet [_____] or by mail. Whether or not you plan to attend the 2018 Annual Meeting, please vote as soon as possible to ensure your vote is counted. You may still attend the 2018 Annual Meeting and vote in person even if you have already voted by proxy. For more detailed instructions on how to vote using one of these methods, please see the section of this proxy statement entitled "The 2018 Annual Meeting—Voting Procedures" beginning on page ____.

To vote in person. You may attend the 2018 Annual Meeting and the Company will give you a ballot when you arrive.

To vote by proxy by telephone or internet. If you have telephone or internet access, you may submit your proxy by following the instructions provided in this proxy statement, or by following the instructions provided with your proxy materials and on the enclosed proxy card or voting instruction card.

To vote by proxy by mail. You may submit your proxy by mail by completing and signing the enclosed proxy card and mailing it in the enclosed envelope. Your shares will be voted as you have instructed.

How do I cast my vote if I am a beneficial owner of shares registered in the name of any broker or bank?

If you are a beneficial owner of shares registered in the name of your broker, bank, dealer or other similar organization, you should have received a proxy card and voting instructions with these proxy materials from that organization rather than from the Company. Simply complete and mail the proxy card to ensure that your vote is counted. Alternatively, you may vote by telephone or over the internet as instructed by your broker or other agent. To vote in person at the 2018 Annual Meeting, you must obtain a valid proxy from your broker or other agent. Follow the instructions from your broker or other agent included with these proxy materials or contact your broker or bank to request a proxy form.

What constitutes a quorum for purposes of the 2018 Annual Meeting?

The presence at the meeting, in person or by proxy, of the holders of at least a majority of the issued and outstanding shares entitled to vote are present or represented by proxy at the Annual Meeting permitting the conduct of business at the meeting. On the record date, there were 25,519,940 shares of Common Stock and 0 shares of preferred stock issued and outstanding and entitled to vote. Accordingly, the holders of 12,759,971 shares eligible to vote must be present at the 2018 Annual Meeting to have a quorum. Proxies received but marked as abstentions or broker

non-votes, if any, will be included in the calculation of the number of votes considered to be present at the meeting for purposes of a quorum. Your shares will be counted toward the quorum at the 2018 Annual Meeting only if you vote in person at the meeting, you submit a valid proxy or your broker, bank, dealer or similar organization submits a valid proxy.

Can I change my vote?

Yes. Any shareholder of record voting by proxy has the right to revoke their proxy at any time before the polls close at the 2018 Annual Meeting by sending a written notice stating that they would like to revoke his, her or its proxy to the Corporate Secretary of the Company; by providing a duly executed proxy card bearing a later date than the proxy being revoked; or by attending the 2018 Annual Meeting and voting in person. Attendance alone at the 2018 Annual Meeting will not revoke a proxy. If a shareholder of the Company has instructed a broker to vote its shares of common stock that are held in "street name," the shareholder must follow directions received from its broker to change those instructions.

Who is soliciting this proxy – Who is paying for this proxy solicitation?

We are soliciting this proxy on behalf of our Board of Directors. The Company will bear the costs of and will pay all expenses associated with this solicitation, including the printing, mailing and filing of this proxy statement, the proxy card and any additional information furnished to shareholders. In addition to mailing these proxy materials, certain of our officers and other employees may, without compensation other than their regular compensation, solicit proxies through further mailing or personal conversations, or by telephone, facsimile or other electronic means. We will also, upon request, reimburse banks, brokers, nominees, custodians and fiduciaries for their reasonable out-of-pocket expenses for forwarding proxy materials to the beneficial owners of our stock and to obtain proxies.

What vote is required to approve each item?

The following votes are required to approve each proposal:

Proposal 1 - Election of the Class I directors requires a plurality (the two nominees receiving the most “FOR” votes) of the votes cast at the 2018 Annual Meeting.

Proposal 2 - Election of the Class II directors requires a plurality (the two nominees receiving the most “FOR” votes) of the votes cast at the 2018 Annual Meeting.

Proposal 3 – To grant the Board of Directors the discretionary authority to effect a reverse stock split (the “Reverse Split Proposal”) of the Company’s common stock. “FOR” votes from the holders of a majority of the outstanding shares of the Company’s common stock as of the record date for the 2018 Annual Meeting are required to approve this proposal.

Proposal 4 – To approve the issuance of securities in one or more non-public offerings where the maximum discount at which securities will be offered will be equivalent to a discount of 20% below the market price of our common stock, as required by and in accordance with Nasdaq Marketplace Rule 5635(d). “FOR” votes from the holders of a majority of the shares of the Company’s common stock present in person or represented by proxy and entitled to vote on the matter at the 2018 Annual Meeting are required to approve this proposal.

Proposal 5 - To approve any change of control that could result from the potential issuance of securities in the non-public offerings following approval of Proposal No. 4, as required by and in accordance with Nasdaq Marketplace Rule 5635(b). “FOR” votes from the holders of a majority of the shares of the Company’s common stock present in person or represented by proxy and entitled to vote on the matter at the 2018 Annual Meeting are required to approve this proposal.

Proposal 6 - To approve an amendment to the Company’s 2018 Equity Incentive Plan to eliminate the performance-based compensation exception to the deductibility limitations under Section 162(m) of the Internal Revenue Code and to include any individual who was our then current or former named executive officers as a “covered employee,” such that payments to former employees will be subject to the deduction limitations thereunder. “FOR” votes from the holders of a majority of the shares of