

BYRNE PATRICK  
Form SC 13D/A  
February 23, 2004

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**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

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**SCHEDULE 13D**

Under the Securities Exchange Act of 1934  
(Amendment No. 2)\*

**OVERSTOCK.COM, INC.**

(Name of Issuer)

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**Common Stock, par value \$0.0001 per share**  
(Title of Class of Securities)

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**690370 10 1**

(CUSIP Number)

**Patrick M. Byrne**  
**6322 South 3000 East, Suite 100**  
**Salt Lake City, Utah 84121**  
**(801) 947-3100**

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

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**February 17, 2004**

(Date of Event which Requires Filing of this Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this Schedule because of Rule 13d-1(e), Rule 13d-1(f) or Rule 13d-1(g), check the following box:

\*The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page.

The information required on the remainder of this cover page shall not be deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act.

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**AMENDMENT NO. 2 TO  
SCHEDULE 13D**

CUSIP No.: 690370 10 1

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1 Name of Reporting Person  
Patrick M. Byrne

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2 Check the Appropriate Box If A Member of a Group (a)   
(b)

3 SEC Use Only

4 Source of Funds  
PF, WC(1)

5 Check Box If Disclosure of Legal Proceedings Is Required Pursuant to Item 2(d) or 2(e)

6 Citizenship or Place of Organization  
United States

Number of  
Shares  
Beneficially

7 Sole Voting Power  
1,060,600(2)

Owned by  
Each  
Reporting

8 Shared Voting Power  
5,707,261(3)

Person  
With

9 Sole Dispositive Power  
1,060,600

10 Shared Dispositive Power  
5,707,261

11 Aggregate Amount Beneficially Owned by Reporting Person  
6,767,861

12 Check Box If the Aggregate Amount in Row (11) Excludes Certain Shares

13 Percent of Class Represented by Amount in Row (11)  
40.6%

14 Type of Reporting Person  
IN

- (1) Working capital of High Plains Investments LLC.
- (2) Includes 106,000 Shares reported that consist of vested options.
- (3) Includes 629,536 Shares reported that consist of vested warrants.

AMENDMENT NO. 2 TO  
STATEMENT ON SCHEDULE 13D

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This Amendment No. 2 (this "Amendment") amends and supplements the Statement on Schedule 13D filed by Patrick M. Byrne, John B. Pettway, High Plains Investments LLC and Haverford Valley L.C. dated November 14, 2002, as amended to date (the "Original 13D") relating to shares of the common stock, par value \$0.0001 per share (the "Shares") of Overstock.com, Inc., a Delaware corporation (the "Issuer"), whose principal executive offices are located at 6322 South 3000 East, Suite 100, Salt Lake City, Utah 84121. Capitalized terms used but not defined herein have the meanings ascribed to them in the Original 13D.

### Item 2. Identity and Background

Item 2 of the Original 13D is supplemented as follows:

The names of the persons filing this Amendment are Patrick M. Byrne ("Dr. Byrne") and John B. Pettway ("Mr. Pettway"). Dr. Byrne is the President and Chairman of the Board of the Issuer.

### Item 3. Source and Amount of Funds or Other Consideration

Item 3 of the Original 13D is supplemented as follows:

On February 17, 2004 Dr. Byrne purchased 620,000 Shares in open market transactions on the Nasdaq National Market System with his personal funds.

### Item 4. Purpose of the Transaction

Item 4 of the Original 13D is supplemented as follows:

Dr. Byrne holds the Shares acquired as reported in this Amendment for the purpose of investment. Dr. Byrne may purchase additional shares.

As the Issuer has previously announced, the Issuer is considering filing a registration statement with the Securities and Exchange Commission for a shelf offering of its common stock. The press release issued by the Issuer stated that the Issuer anticipates that the shelf registration statement will register up to 2.5 million shares and that there will be no selling stockholders.

Dr. Byrne anticipates that the Board of Directors of the Issuer may fill a vacancy on the Board of Directors by appointing to the Board John J. Byrne, Jr., the father of Dr. Byrne and a former member of the Board of Directors.

### Item 5. Interest in Securities of the Issuer

Item 5 of the Original 13D is supplemented as follows:

As set forth herein, Dr. Byrne beneficially owns 6,767,861 Shares, which represent 40.6% of the outstanding Shares, based upon the number of Shares outstanding as of the most recent practicable date, and calculated in accordance with Rule 13d-3. Dr. Byrne shares voting and dispositive power over 5,707,261 Shares with High Plains Investments LLC and Haverford Valley L.C., and shares voting and dispositive power over 201,693 Shares with High Plains Investments LLC, Haverford Valley L.C. and High Meadows Finance L.C. Dr. Byrne disclaims beneficial ownership of the Shares held by High Plains Investments LLC, High Meadows Finance L.C. and all other persons except to the extent of his pecuniary interest in each entity, respectively. Dr. Byrne has sole voting and dispositive power over 1,060,600 Shares, including 106,000 Shares subject to unexercised options.

Mr. Pettway ceased to be the beneficial owner of more than five percent of the outstanding Shares on January 1, 2003.

No transactions in the Shares were effected by Dr. Byrne in the last sixty days except that Dr. Byrne acquired beneficial ownership of 620,000 of the Shares described herein in open market purchases on the Nasdaq National Market System as described on Exhibit A to this Amendment.

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**SIGNATURE**

After reasonable inquiry and to the best of the knowledge and belief of the undersigned, each of the undersigned certifies that the information set forth in this Amendment No. 2 to Statement on Schedule 13D relating to him is true, complete and correct.

Dated: February 20, 2004

/s/ PATRICK M. BYRNE

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Patrick M. Byrne

/s/ JOHN B. PETTWAY

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John B. Pettway

**Exhibit A**

| <b>SYM</b> | <b>PRICE</b> | <b>QTY</b> | <b>PRICE</b> |           |
|------------|--------------|------------|--------------|-----------|
| OSTK       | 19.4500      | 2992       | 19.4500      | 5,213,624 |
| OSTK       | 19.4800      | 300        | 19.4800      | 5,213,924 |
| OSTK       | 19.4900      | 3400       | 19.4900      | 5,217,324 |
| OSTK       | 19.5000      | 250        | 19.5000      | 5,217,574 |
| OSTK       | 19.5990      | 150        | 19.5990      | 5,217,724 |
| OSTK       | 19.6000      | 900        | 19.6000      | 5,218,624 |
| OSTK       | 19.6390      | 100        | 19.6390      | 5,218,724 |
| OSTK       | 19.6400      | 1450       | 19.6400      | 5,220,174 |
| OSTK       | 19.6500      | 2008       | 19.6500      | 5,222,182 |
| OSTK       | 19.7000      | 100        | 19.7000      | 5,222,282 |
| OSTK       | 19.7400      | 150        | 19.7400      | 5,222,432 |
| OSTK       | 19.7500      | 2450       | 19.7500      | 5,224,882 |
| OSTK       | 19.7800      | 550        | 19.7800      | 5,225,432 |
| OSTK       | 19.7900      | 150        | 19.7900      | 5,225,582 |
| OSTK       | 19.8500      | 50         | 19.8500      | 5,225,632 |
| OSTK       | 19.8800      | 100        | 19.8800      | 5,225,732 |
| OSTK       | 19.9000      | 1325       | 19.9000      | 5,227,057 |
| OSTK       | 19.9400      | 2522       | 19.9400      | 5,229,579 |
| OSTK       | 19.9700      | 1975       | 19.9700      | 5,231,554 |
| OSTK       | 19.9790      | 150        | 19.9790      | 5,231,704 |
| OSTK       | 19.9800      | 300        | 19.9800      | 5,232,004 |
| OSTK       | 19.9890      | 100        | 19.9890      | 5,232,104 |
| OSTK       | 19.9900      | 2700       | 19.9900      | 5,234,804 |
| OSTK       | 20.0000      | 8850       | 20.0000      | 5,243,654 |
| OSTK       | 20.2100      | 500        | 20.2100      | 5,244,154 |
| OSTK       | 20.2480      | 300        | 20.2480      | 5,244,454 |
| OSTK       | 20.2500      | 10750      | 20.2500      | 5,255,204 |
| OSTK       | 20.3000      | 1500       | 20.3000      | 5,256,704 |
| OSTK       | 20.3100      | 122        | 20.3100      | 5,256,826 |
| OSTK       | 20.3200      | 1000       | 20.3200      | 5,257,826 |
| OSTK       | 20.3300      | 10878      | 20.3300      | 5,268,704 |
| OSTK       | 20.3500      | 4410       | 20.3500      | 5,273,114 |
| OSTK       | 20.3700      | 200        | 20.3700      | 5,273,314 |
| OSTK       | 20.3800      | 700        | 20.3800      | 5,274,014 |
| OSTK       | 20.4400      | 100        | 20.4400      | 5,274,114 |
| OSTK       | 20.4500      | 263        | 20.4500      | 5,274,377 |
| OSTK       | 20.4600      | 100        | 20.4600      | 5,274,477 |

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| <u>SYM</u> | <u>PRICE</u> | <u>QTY</u> | <u>PRICE</u> |           |
|------------|--------------|------------|--------------|-----------|
| OSTK       | 20.4700      | 500        | 20.4700      | 5,274,977 |
| OSTK       | 20.4800      | 2800       | 20.4800      | 5,277,777 |
| OSTK       | 20.5000      | 11620      | 20.5000      | 5,289,397 |
| OSTK       | 20.6290      | 500        | 20.6290      | 5,289,897 |
| OSTK       | 20.6300      | 600        | 20.6300      | 5,290,497 |
| OSTK       | 20.6400      | 3800       | 20.6400      | 5,294,297 |
| OSTK       | 20.6500      | 34918      | 20.6500      | 5,329,215 |
| OSTK       | 20.6900      | 63         | 20.6900      | 5,329,278 |
| OSTK       | 20.7000      | 6937       | 20.7000      | 5,336,215 |
| OSTK       | 20.7400      | 8237       | 20.7400      | 5,344,452 |
| OSTK       | 20.8000      | 7000       | 20.8000      | 5,351,452 |
| OSTK       | 20.8300      | 100        | 20.8300      | 5,351,552 |
| OSTK       | 20.8400      | 2880       | 20.8400      | 5,354,432 |
| OSTK       | 20.8500      | 13640      | 20.8500      | 5,368,072 |
| OSTK       | 20.8900      | 1600       | 20.8900      | 5,369,672 |
| OSTK       | 20.9000      | 7000       | 20.9000      | 5,376,672 |
| OSTK       | 20.9100      | 100        | 20.9100      | 5,376,772 |
| OSTK       | 20.9190      | 300        | 20.9190      | 5,377,072 |
| OSTK       | 20.9200      | 400        | 20.9200      | 5,377,472 |
| OSTK       | 20.9300      | 800        | 20.9300      | 5,378,272 |
| OSTK       | 20.9400      | 6900       | 20.9400      | 5,385,172 |
| OSTK       | 20.9500      | 7260       | 20.9500      | 5,392,432 |
| OSTK       | 20.9600      | 300        | 20.9600      | 5,392,732 |
| OSTK       | 20.9690      | 260        | 20.9690      | 5,392,992 |
| OSTK       | 20.9700      | 4020       | 20.9700      | 5,397,012 |
| OSTK       | 20.9800      | 1100       | 20.9800      | 5,398,112 |
| OSTK       | 20.9900      | 7400       | 20.9900      | 5,405,512 |
| OSTK       | 21.0000      | 61450      | 21.0000      | 5,466,962 |
| OSTK       | 21.0600      | 2600       | 21.0600      | 5,469,562 |
| OSTK       | 21.1100      | 1900       | 21.1100      | 5,471,462 |
| OSTK       | 21.1300      | 5000       | 21.1300      | 5,476,462 |
| OSTK       | 21.1400      | 100        | 21.1400      | 5,476,562 |
| OSTK       | 21.1500      | 3040       | 21.1500      | 5,479,602 |
| OSTK       | 21.1800      | 7100       | 21.1800      | 5,486,702 |
| OSTK       | 21.1990      | 900        | 21.1990      | 5,487,602 |
| OSTK       | 21.2000      | 41870      | 21.2000      | 5,529,472 |
| OSTK       | 21.2060      | 600        | 21.2060      | 5,530,072 |
| OSTK       | 21.2090      | 400        | 21.2090      | 5,530,472 |
| OSTK       | 21.2100      | 7320       | 21.2100      | 5,537,792 |
| OSTK       | 21.2200      | 600        | 21.2200      | 5,538,392 |
| OSTK       | 21.2300      | 40         | 21.2300      | 5,538,432 |
| OSTK       | 21.2400      | 12400      | 21.2400      | 5,550,832 |
| OSTK       | 21.2500      | 39790      | 21.2500      | 5,590,622 |
| OSTK       | 21.2700      | 200        | 21.2700      | 5,590,822 |
| OSTK       | 21.2900      | 8800       | 21.2900      | 5,599,622 |
| OSTK       | 21.3100      | 32500      | 21.3100      | 5,632,122 |
| OSTK       | 21.3300      | 500        | 21.3300      | 5,632,622 |
| OSTK       | 21.3400      | 600        | 21.3400      | 5,633,222 |
| OSTK       | 21.3500      | 10150      | 21.3500      | 5,643,372 |
| OSTK       | 21.3600      | 7000       | 21.3600      | 5,650,372 |
| OSTK       | 21.3700      | 2300       | 21.3700      | 5,652,672 |
| OSTK       | 21.3800      | 5260       | 21.3800      | 5,657,932 |
| OSTK       | 21.3990      | 1450       | 21.3990      | 5,659,382 |
| OSTK       | 21.4000      | 35640      | 21.4000      | 5,695,022 |
| OSTK       | 21.4270      | 300        | 21.4270      | 5,695,322 |
| OSTK       | 21.4280      | 200        | 21.4280      | 5,695,522 |
| OSTK       | 21.4290      | 400        | 21.4290      | 5,695,922 |
| OSTK       | 21.4300      | 7800       | 21.4300      | 5,703,722 |
| OSTK       | 21.4390      | 300        | 21.4390      | 5,704,022 |
| OSTK       | 21.4400      | 1262       | 21.4400      | 5,705,284 |

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|                    |         |        |         |           |
|--------------------|---------|--------|---------|-----------|
| OSTK               | 21.4490 | 600    | 21.4490 | 5,705,884 |
| OSTK               | 21.4500 | 32760  | 21.4500 | 5,738,644 |
| OSTK               | 21.4570 | 100    | 21.4570 | 5,738,744 |
| OSTK               | 21.4600 | 4200   | 21.4600 | 5,742,944 |
| OSTK               | 21.4900 | 38567  | 21.4900 | 5,781,511 |
| OSTK               | 21.5000 | 49121  | 21.5000 | 5,830,632 |
| Total \$ Purchases |         | 620000 |         |           |

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