

APPLERA CORP
Form S-8
October 29, 2004

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549**

**FORM S-8
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933**

APPLERA CORPORATION

(Exact Name of Registrant as Specified in Its Charter)

Delaware
(State or Other Jurisdiction of
Incorporation or Organization)

06-1534213
(I.R.S. Employer
Identification Number)

**301 MERRITT 7
NORWALK, CONNECTICUT 06851-1070**
(Address of Principal Executive Offices, including Zip Code)

**APPLERA CORPORATION
1999 EMPLOYEE STOCK PURCHASE PLAN**

(Full Title of the Plan)

**WILLIAM B. SAWCH
Senior Vice President and General Counsel
APPLERA CORPORATION**

**301 Merritt 7
Norwalk, Connecticut 06851-1070
(203) 840-2000**
(Name, Address, and Telephone Number of Agent for Service)

CALCULATION OF REGISTRATION FEE

| Title of Each Class of Securities to be Registered | Amount to be Registered (1)(2)(3) | Proposed Maximum Offering Price Per Share (4) | Proposed Maximum Aggregate Offering Price (4) | Amount of Registration Fee |
|---|-----------------------------------|---|---|----------------------------|
| Applera Corporation <input type="checkbox"/> Applied Biosystems Group Common Stock, par value \$.01 per share (2) | 1,000,000 | \$18.58 | \$18,580,000 | \$2,354.09 |
| Applera Corporation <input type="checkbox"/> Celera Genomics Group Common Stock, par value \$.01 per share (3) | 1,500,000 | \$12.00 | \$18,000,000 | \$2,280.60 |

- Together with an indeterminate number of additional shares that may be issued to adjust the number of shares reserved for issuance pursuant to the Applera Corporation 1999 Employee Stock Purchase Plan as the result of any future stock split, stock dividend, or similar adjustment to the Applera Corporation Applied Biosystems Group Common Stock (the Applera Applied Biosystems Stock) or the Applera Corporation Celera Genomics Group Common Stock (the Applera Celera Stock).

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2. This Registration Statement also includes rights to purchase Series A Participating Junior Preferred Stock, par value \$.01 per share, of the Registrant (the "Series A Rights"). Until the occurrence of certain prescribed events, the Series A Rights are not exercisable, are evidenced by the certificates for Applera " Applied Biosystems Stock, and will be transferred along with and only with such securities. Thereafter, separate Series A Rights certificates will be issued representing one Series A Right for each share of Applera " Applied Biosystems Stock held, subject to adjustment pursuant to anti-dilution provisions.
 3. This Registration Statement also includes rights to purchase Series B Participating Junior Preferred Stock, par value \$.01 per share, of the Registrant (the "Series B Rights"). Until the occurrence of certain prescribed events, the Series B Rights are not exercisable, are evidenced by the certificates for Applera " Celera Stock, and will be transferred along with and only with such securities. Thereafter, separate Series B Rights certificates will be issued representing one Series B Right for each share of Applera " Celera Stock held, subject to adjustment pursuant to anti-dilution provisions.
 4. Pursuant to Rule 457(h)(1) and Rule 457(c), the proposed maximum offering price per share and the registration fee are based on the reported average of the high and low prices for the Applera " Applied Biosystems Stock and Applera " Celera Stock on the New York Stock Exchange on October 25, 2004. The maximum offering price per share is estimated solely for purposes of calculating the registration fee.
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The contents of the Registration Statement on Form S-8 filed by Applera Corporation (formerly PE Corporation) (the "Company") (File No. 333-91771) on November 30, 1999, with the Securities and Exchange Commission pursuant to the Securities Act of 1933, as amended, are hereby incorporated by reference in this Registration Statement.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 5. Interests of Named Experts and Counsel.

Legal matters in connection with the shares of Applera " Applied Biosystems Stock and Applera " Celera Stock subject to issuance pursuant to the Applera Corporation 1999 Employee Stock Purchase Plan have been passed upon by Thomas P. Livingston, Esq., Vice President and Secretary of the Company. Mr. Livingston owns Applera " Applied Biosystems Stock and Applera " Celera Stock and options to purchase Applera " Applied Biosystems Stock and Applera " Celera Stock with an aggregate value in excess of \$50,000.

Item 8. Exhibits.

The following exhibits are filed as part of this Registration Statement:

- Exhibit 3.1 Restated Certificate of Incorporation of Applera Corporation (incorporated by reference to Exhibit 3(i) to the Company's Quarterly Report on Form 10-Q for the fiscal quarter ended December 31, 2000 (Commission file No. 1-4389)).
 - Exhibit 3.2 By-laws of Applera Corporation (incorporated by reference to Exhibit 3.2 to the Company's Registration Statement on Form S-4 (No. 333-67797)).
 - Exhibit 3.3 Certificate of Designations of Series A Participating Junior Preferred Stock and Series B Participating Junior Preferred Stock (incorporated by reference to Exhibit A to Exhibit 4.1 to the Company's Registration Statement on Form S-4 (No. 333-67797)).
 - Exhibit 4.1 Stockholder Protection Rights Agreement, dated as of April 28, 1999, between the Company and BankBoston N.A. (incorporated by reference to Exhibit 4.1 to the Company's Registration Statement on Form S-4 (No. 333-67797)).
 - Exhibit 4.2 Amendment to Rights Agreement dated as of April 17, 2002, among BankBoston, N.A., EquiServe Trust Company, N.A., and the Company (incorporated by reference to Exhibit 4.2 to the Company's Annual Report on Form 10-K for the fiscal year ended June 30, 2002 (Commission file number 1-4389)).
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Exhibit 5 Opinion of Thomas P. Livingston, Esq. (including consent).

Exhibit 10.1 Applera Corporation 1999 Employee Stock Purchase Plan, as amended October 21, 2004 (incorporated by reference to Annex A to Schedule 14A, filed September 17, 2004, containing the Company's definitive Proxy Statement for its 2004 Annual Meeting of Stockholders (Commission file number 1-4389)).

Exhibit 23.1 Consent of PricewaterhouseCoopers LLP.

Exhibit 23.2 Consent of Thomas P. Livingston, Esq. (included in Exhibit 5).

Exhibit 24 Power of Attorney (contained on the signature pages hereof).

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Company 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 to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Norwalk, State of Connecticut, on October 29, 2004.

APPLERA CORPORATION

By: /s/ William B. Sawch
William B. Sawch
Senior Vice President and
General Counsel

POWER OF ATTORNEY

We, the undersigned directors and officers of the Company, do hereby constitute and appoint Dennis L. Winger and William B. Sawch, or either of them, our true and lawful attorneys and agents, to do any and all acts and things in our name and on our behalf in our capacities as directors and officers and to execute any and all instruments for us and in our names in the capacities indicated below, which said attorneys and agents, or either of them, may deem necessary or advisable to enable said corporation to comply with the Securities Act of 1933 and any rules, regulations and requirements of the Securities and Exchange Commission, in connection with this Registration Statement, including specifically, but without limitation, power and authority to sign for us or any of us in our names in the capacities indicated below, any and all amendments (including post-effective amendments) hereto and we do hereby ratify and confirm all that said attorneys and agents, or either of them, shall do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

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|--------------------------|--|------------------|
| <u>/s/ Tony L. White</u> | Chairman of the Board, President and | October 29, 2004 |
| Tony L. White | Chief Executive Officer (Principal Executive Officer) | |

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|---|---|------------------|
| <u>/s/ Dennis L. Winger</u> Dennis L. Winger | Senior Vice President and Chief Financial Officer (Principal Financial Officer) | October 29, 2004 |
| <u>/s/ Ugo D. DeBlasi</u> Ugo D. DeBlasi | Controller (Principal Accounting Officer) | October 29, 2004 |
| <u>/s/ Richard H. Ayers</u> Richard H. Ayers | Director | October 29, 2004 |
| <u>/s/ Jean-Luc Bélingard</u> Jean-Luc Bélingard | Director | October 29, 2004 |
| <u>/s/ Robert H. Hayes</u> Robert H. Hayes | Director | October 29, 2004 |
| <u>/s/ Arnold J. Levine</u> Arnold J. Levine | Director | October 29, 2004 |
| <u>/s/ William H. Longfield</u> William H. Longfield | Director | October 29, 2004 |
| <u>/s/ Theodore E. Martin</u> Theodore E. Martin | Director | October 29, 2004 |
| <u>/s/ Carolyn W. Slayman</u> Carolyn W. Slayman | Director | October 29, 2004 |
| <u>/s/ Orin R. Smith</u> Orin R. Smith | Director | October 29, 2004 |
| <u>/s/ James R. Tobin</u> James R. Tobin | Director | October 29, 2004 |

EXHIBIT INDEX

| <u>Exhibit No.</u> | <u>Description</u> |
|---------------------------|--|
| Exhibit 5 | Opinion of Thomas P. Livingston, Esq. (including consent). |
| Exhibit 23.1 | Consent of PricewaterhouseCoopers LLP. |
| Exhibit 23.2 | Consent of Thomas P. Livingston, Esq. (included in Exhibit 5). |
| Exhibit 24 | Power of Attorney (contained on the signature pages hereof). |
