

ADOBE SYSTEMS INC
Form S-8
March 15, 2001

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SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-8

REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

ADOBE SYSTEMS INCORPORATED

(Exact name of registrant as specified in its charter)

Delaware
(State of Incorporation)

77-0019522
(I.R.S. Employer Identification No.)

345 Park Avenue
San Jose, California 95110
(408) 536-6000

(Address of principal executive offices)

1999 Nonstatutory Stock Option Plan
(Full title of the plans)

Murray J. Demo
Senior Vice President and Chief Financial Officer
Adobe Systems Incorporated
345 Park Avenue
San Jose, California 95110
(408) 536-6000

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

Copies to:

Cheryl K. House, Esq.
Adobe Systems Incorporated
345 Park Avenue
San Jose, California 95110
(408) 536-6000

CALCULATION OF REGISTRATION FEE

Title of Securities to be Registered	Amount to be Registered	Proposed Maximum Offering Price per Share (1)	Proposed Maximum Aggregate Offering Price (1)	Amount of Registration Fee
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Stock Options and Common Stock (par value \$.0001)	12,000,000 shares	\$26.25	\$315,000,000	\$78,750
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- (1) Estimated solely for the purpose of calculating the amount of the registration fee pursuant to Rule 457(h). The offering price per share and aggregate offering price are based upon the average of the high and low prices of Registrant's Common Stock on March 9, 2001 as reported on the Nasdaq National Market.
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INCORPORATION OF DOCUMENTS BY REFERENCE

The following documents filed by Adobe Systems Incorporated (the "Registrant") with the Securities and Exchange Commission are incorporated by reference into this Registration Statement:

- (a) The Registrant's Annual Report on Form 10-K for the fiscal year ended December 1, 2000; and
- (b) The description of the Registrant's Common Stock contained in the Registrant's Registration Statement on Form 8-A, filed pursuant to Section 12 of the Exchange Act of 1934, including any amendments or reports filed for the purpose of updating such description.

All reports and other documents subsequently filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act prior to the filing of a post-effective amendment which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference herein and to be a part of this registration statement from the date of the filing of such reports and documents.

INDEMNIFICATION OF DIRECTORS AND OFFICERS

Section 145 of the Delaware General Corporation Law (the "Delaware Code") authorizes a court to award, or a corporation's board of directors to grant, indemnification to directors and officers in terms sufficiently broad to permit such indemnification under certain circumstances for liabilities (including reimbursement for expenses incurred) arising under the Securities Act of 1933. The Registrant's Bylaws provide for indemnification of its directors, officers, employees and other agents to the fullest extent not prohibited by the Delaware Code. The Registrant also maintains directors' and officers' insurance against liabilities under the Securities Act of 1933 for its directors and principal executive officers. In addition, each officer and director is a party to a written agreement which states that the Registrant agrees to hold each of them harmless against any and all judgments, fines, settlements and expenses related to claims against such person by reason of the fact that the person is or was a director, officer, employee or other agent of the Registrant, and otherwise to the fullest extent authorized or permitted by the Registrant's Bylaws and under the non-exclusivity provisions of the Delaware Code.

EXHIBITS

Exhibit Number	Description
4.1	The Registrant's (as successor-in-interest to Adobe Systems (Delaware) Incorporated by virtue of a reincorporation effective May 30, 1997) Certificate of Incorporation, as filed with the Secretary of State of the State of Delaware on May 9, 1997.

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Exhibit Number	Description
4.2	Amended and Restated Bylaws of Registrant as currently in effect.
4.3	Certificate of Designation of the Series A Preferred Stock.
4.4	Agreement and Plan of Merger effective May 30, 1997 (by virtue of a reincorporation), by and between Adobe Systems Incorporated, a California corporation, and Adobe Systems (Delaware) Incorporated, a Delaware corporation.
4.5	Third Amended and Restated Rights Agreement between the Registrant and Harris Trust Company of California.
4.6	1999 Nonstatutory Stock Option Plan, as amended.
4.7	Forms of Stock Option Agreement used in connection with the 1999 Nonstatutory Stock Option Plan.
4.8	Fourth Amended and Restated Rights Agreement between the Registrant and Computershare Investor Services, LLC.
4.9	Certificate of Amendment of Certificate of Incorporation, as filed with the Secretary of State of Delaware on May 26, 2000.
5	Opinion of Cheryl K. House, Esq., corporate securities counsel.
23.1	Consent of KPMG LLP, Independent Public Accountants.
23.2	Consent of Cheryl K. House, Esq., contained within Exhibit 5.

UNDERTAKINGS

1.

The undersigned registrant hereby undertakes:

(a)

To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i)

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

(ii)

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. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) ((S) 230.424(b) of this chapter) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement;

(iii)

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)(i) and (a)(ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed by or furnished by the issuer pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference herein.

(b)

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 herein, and the offering of such securities at that

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Signature	Title
<u>/s/ JOHN E. WARNOCK</u> (John E. Warnock)	Chairman of the Board and Chief Technology Officer
<u>/s/ CHARLES M. GESCHKE</u> (Charles M. Geschke)	Chairman of the Board
<u>/s/ BRUCE R. CHIZEN</u> (Bruce R. Chizen)	President, Chief Executive Officer and Director (Principal Executive Officer)
<u>/s/ MURRAY J. DEMO</u> (Murray J. Demo)	Senior Vice President and Chief Financial Officer (Principal Financial and Accounting Officer)
<u>/s/ CAROL MILLS BALDWIN</u> (Carol Mills Baldwin)	Director
<u>/s/ ROBERT SEDGEWICK</u> (Robert Sedgewick)	Director
<u>/s/ DELBERT W. YOCAM</u> (Delbert W. Yocam)	Director
<u>/s/ ANTONIO M. PEREZ</u> (Antonio M. Perez)	Director

EXHIBIT INDEX

Exhibit Number	Description	Incorporated by Reference		
		Form	Date of Report	Exhibit No.
4.1	The Registrant's (as successor-in-interest to Adobe Systems (Delaware) Incorporated by virtue of a reincorporation effective May 30, 1997) Certificate of Incorporation, as filed with the Secretary of State of the State of Delaware on May 9, 1997.	10-Q	5/30/97	3.1
4.2	Amended and Restated Bylaws of Registrant as currently in effect.	8-K	9/03/98	3.2
4.3	Certificate of Designation of the Series A Preferred Stock.	10-K	11/28/97	3.3
4.4	Agreement and Plan of Merger effective May 30, 1997 (by virtue of a reincorporation), by and between Adobe Systems	10-Q	5/30/97	2.1

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Incorporated by Reference

		<u>Incorporated by Reference</u>		
	Incorporated, a California corporation, and Adobe Systems (Delaware) Incorporated, a Delaware corporation.			
4.5	Third Amended and Restated Rights Agreement between the Registrant and Harris Trust Company of California.	8-K	12/15/98	1
4.6	1999 Nonstatutory Stock Option Plan, as amended.			X
4.7	Forms of Stock Option Agreement used in connection with the 1999 Nonstatutory Stock Option Plan.	S-8	9/15/99	4.7
4.8	Fourth Amended and Restated Rights Agreement between the Registrant and Computershare Investor Services, LLC.	8-K	7/3/00	1
4.9	Certificate of Amendment of Certificate of Incorporation, as filed with the Secretary of State of Delaware on May 26, 2000.	S-8	6/16/00	4.6
5	Opinion of Cheryl K. House, Esq., corporate securities counsel.			X
23.1	Consent of KPMG LLP, Independent Public Accountants.			X
23.2	Consent of Cheryl K. House, Esq., contained within Exhibit 5.			X

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