

COSTAR GROUP INC  
Form S-8  
July 11, 2006

As filed with the Securities and Exchange Commission on July 11, 2006

Registration No. 333-

**SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549**

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

**COSTAR GROUP, INC.**  
(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction of  
incorporation or organization)

**52-2091509**  
(I.R.S. Employer  
Identification No.)

2 Bethesda Metro Center  
Bethesda, Maryland 20814  
(Address, including zip code, of principal executive offices)

**CoStar Group, Inc.**  
**Employee Stock Purchase Plan**  
(Full Title of the Plan)

**Jonathan Coleman, Esq.**  
General Counsel  
CoStar Group, Inc.  
2 Bethesda Metro Center  
Bethesda, Maryland 20814  
(301) 215-8300  
Fax: (301) 718-2444

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

**CALCULATION OF REGISTRATION FEE**

Title of Securities	Amount	Proposed Maximum Offering Price	Proposed Maximum Aggregate Offering Price (2)	Amount of Registration Fee (2)
To Be Registered	To Be Registered(1)	Per Share (2)		
Common Stock \$.01 par value	100,000 shares	\$ 60.04	\$6,004,000	\$ 643

(1) Pursuant to  
Rule 416 under

the Securities Act of 1933, as amended, this Registration Statement also covers an indeterminate number of additional shares as may be issued under the CoStar Group, Inc. Employee Stock Purchase Plan as a result of adjustments to the number of outstanding shares of Common Stock by reason of any recapitalization, stock split, stock dividend or similar transaction.

- (2) Pursuant to Rules 457(c) and (h)(1) under the Securities Act of 1933, as amended, the Registrant has computed the maximum offering price for the 100,000 shares to be registered solely for the purpose of computing the registration fee by reference to the average of the high and low sale prices for the Registrant's Common Stock as quoted on the Nasdaq Global

Select Market  
on July 6, 2006.

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**PART I. INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS**

Omitted in accordance with Rule 428 under the Securities Act of 1933, as amended, and the Introductory Note to Part I of Form S-8.

**PART II. INFORMATION REQUIRED IN THE REGISTRATION STATEMENT**

**Item 3. Incorporation of Documents by Reference.**

The following documents previously filed with the Securities and Exchange Commission (the Commission) are hereby incorporated by reference into this registration statement:

1. The Registrant's Annual Report on Form 10-K for its fiscal year ended December 31, 2005, filed with the Commission on March 7, 2006.
2. The Registrant's Quarterly Report on Form 10-Q for the three months ended March 31, 2006, filed on May 10, 2006.
3. The Registrant's Current Reports on Form 8-K filed on February 16, 2006, April 27, 2006, and May 3, 2006.
4. The description of the common stock, \$0.01 par value per share, of the Registrant (the Common Stock), contained in the Registrant's Registration Statement on Form 8-A filed with the Securities and Exchange Commission on June 25, 1998, which incorporates by reference the description of the Common Stock contained in the Registration Statement on Form S-1 (No. 333-47953) (originally filed on March 13, 1998), as amended, together with all amendments and reports filed with the Commission for the purposes of updating such description.

All reports and other documents that the Registrant subsequently files with the Commission pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act, prior to the filing of a post-effective amendment indicating that all securities offered under this Registration Statement have been sold or that deregisters all such securities then remaining unsold, shall be deemed to be incorporated by reference into this Registration Statement and to be part hereof from the date of filing of such report or document. Any statement contained herein or in a document incorporated or deemed to be incorporated herein by reference shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any subsequently filed document which also is, or is deemed to be, incorporated by reference herein modifies or supersedes such prior statement. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement. The Registrant's Exchange Act file number with the Commission is 000-24531.

**Item 4. Description of Securities.**

Not applicable.

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**Item 5. Interest of Named Experts and Counsel.**

Not applicable.

**Item 6. Indemnification of Directors and Officers.**

Section 145 of the Delaware General Corporation Law (the "DGCL") provides for, among other things:

(a) permissive indemnification for expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred by designated persons, including directors, officers, employees and agents of a corporation, in the event such persons are parties to litigation other than stockholder derivative actions if certain conditions are met;

(b) permissive indemnification for expenses actually and reasonably incurred by designated persons, including directors, officers, employees and agents of a corporation, in the event such persons are parties to stockholder derivative actions if certain conditions are met;

(c) mandatory indemnification for expenses actually and reasonably incurred by designated persons, including directors and officers of a corporation, in the event such persons are successful on the merits or otherwise in litigation covered by (a) and (b) above; and

(d) that the indemnification provided for by Section 145 shall not be deemed exclusive of any other rights which may be provided under any bylaw, agreement, stockholder or disinterested director vote, or otherwise.

CoStar Group, Inc.'s ( "CoStar") restated certificate of incorporation provides that a director shall not be personally liable to CoStar or its stockholders for monetary damages for breach of fiduciary duty as a director except for liability (1) for any breach of the director's duty of loyalty to CoStar 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 paying a dividend or approving a stock repurchase or redemption in violation of Section 174 of the DGCL or (4) for any transaction from which the director derived an improper personal benefit. The certificate of incorporation also provides that CoStar shall indemnify each director and officer to the fullest extent permitted by Section 145 of the DGCL for all expenses, liabilities and other matters referenced in that Section. Such indemnification is not exclusive of any other rights to which such persons may be entitled under any bylaw, agreement, vote of stockholders, vote of disinterested directors or otherwise.

CoStar's amended and restated bylaws provide that each person who was or is made a party to, or is involved in, any action, suit or proceeding by reason of the fact that he or she is or was a director or officer of CoStar (or was serving at the request of CoStar as a director, officer, employee or agent for another entity) shall be, and employees and agents may be, indemnified by CoStar, to the fullest extent authorized by the DGCL, against all expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred by the person or on his or her behalf in connection therewith, if the person acted in good faith and in a manner he or she reasonably believed to be not opposed to the best interests of CoStar and, in criminal matters, if the person had no reasonable cause to believe his or her conduct was unlawful. When the action, suit or proceeding is brought in favor of CoStar, such indemnification rights extend only to expenses, and no indemnification rights apply to any adjudged liability of the person to CoStar unless the applicable court determines that the person is fairly and reasonably entitled to such indemnification. The amended and restated bylaws further provide that such indemnification rights are contract rights, and indemnified directors and officers shall have the right to be paid by CoStar for the expenses incurred in defending the proceedings specified above, in advance of their final disposition, upon receipt from the indemnified person of an undertaking to repay all amounts so advanced if it shall ultimately be determined that the person is not entitled to be indemnified. Such expenses, including attorneys' fees, may be paid with respect to indemnified employees and agents, as the board of directors deems appropriate. The amended and restated bylaws provide that the right to indemnification and to the advance payment of expenses shall not be exclusive of any other right which any person may have or acquire under any agreement, statute, provision of CoStar's restated bylaws, certificate of incorporation, or otherwise.

CoStar has entered into indemnification agreements with each of its directors and certain of its officers, which clarify and enhance the rights and obligations of CoStar and those directors and officers with respect to indemnification of such persons. The agreements provide, among other things, that, subject to certain enumerated exceptions, CoStar shall indemnify to the fullest extent permitted by the DGCL each director and officer who is a party to the agreements and who is, or is threatened to be, made a party to any action, suit, investigation or proceeding by reason of the fact that he or she is, was or has agreed to become a director, officer, employee or agent of CoStar or its subsidiaries (or is or was serving, or has agreed to serve, at the request of CoStar as a director, officer, employee, partner, agent or fiduciary of another entity) for all costs, damages, losses, judgments, penalties and other expenses actually and reasonably incurred by the indemnified person in connection with any such action, suit investigation or proceeding and for any taxes imposed on such person as a result of payments under the indemnification agreements, provided, that the indemnified person acted in good faith and in a manner reasonably believed to be in or not opposed to the best interests of CoStar and, with respect to any criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful. Indemnified parties are presumed to be entitled to indemnification under the agreements and indemnification shall be made by CoStar unless a determination is made, in accordance with the agreements, that indemnification is not proper. Further, if the indemnified party is successful in defense of any action, suit or proceeding or in defense of a claim, then he or she shall be indemnified against all expenses in connection therewith (notwithstanding the enumerated exceptions) and may be indemnified for some or a portion of the expenses actually and reasonably incurred if he or she is only entitled to indemnification of that portion. Pursuant to the indemnification agreements, indemnified persons are entitled to advancement of expenses, and, in connection therewith, each such person undertakes to reimburse those amounts if he or she is not entitled to indemnification of such expenses. Indemnification rights provided under the indemnification agreements are not exclusive of any other rights to which the indemnified persons may be entitled under CoStar's bylaws or other organizational documents, vote of stockholders or disinterested directors, provision of law, agreement or otherwise.

Pursuant to CoStar's restated certificate of incorporation and Section 145 of the DGCL, CoStar may also purchase and maintain insurance on behalf of any director, officer, employee or agent of the corporation to the extent permitted by Section 145 of the DGCL. Pursuant to the indemnification agreements described above, if CoStar obtains insurance for itself or its officers or directors, it also has an obligation to provide coverage for the directors and officers who are parties to those agreements to the same extent as any other director or officer of the corporation.

**Item 7. Exemption From Registration Claimed.**

Not applicable.

**Item 8. Exhibits**

Exhibit No.	Description
4.1	Restated Certificate of Incorporation (Incorporated by reference to Exhibit 3.1 to Amendment No. 4 to the Registration Statement on Form S-1 of the Registrant (No. 333-47953) filed with the Commission on March 13, 1998 (the "1998 Form S-1")).
4.2	Certificate of Amendment of Restated Certificate of Incorporation (Incorporated by reference to Exhibit 3.1 to the Quarterly Report for the Period Ended June 30, 1999 on Form 10-Q, filed with the Commission on August 11, 1999).
4.3	Amended and Restated By-Laws (Incorporated by reference to Exhibit 3.2 to the 1998 Form S-1).
4.4	Specimen Common Stock Certificate (Incorporated by reference to Exhibit 4.1 to the Registrant's Annual Report on Form 10-K for the year ended December 31, 1999).
4.5*	CoStar Group, Inc. Employee Stock Purchase Plan.
5.1*	Opinion of Gibson, Dunn & Crutcher LLP.
23.1*	Consent of Ernst & Young LLP, Independent Auditors.
23.2*	Consent of Gibson, Dunn & Crutcher LLP (Contained in Exhibit 5.1).
24.1*	Powers of Attorney (Included in the Signature Pages to the Registration Statement).

\* 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:

(i) to include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

(ii) to reflect in the prospectus any facts or events arising after the effective date of this 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 this 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) if, in the aggregate, the changes in volume and price represent no more than 20% change in the maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective registration statement; and

(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)(1)(i) and (a)(1)(ii) shall not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the Registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in this Registration Statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, 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 of 1933, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) 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 of 1933 may be permitted to directors, officers and controlling persons of the Registrant pursuant to the provisions set forth in Item 6 of this Registration Statement, or otherwise, the Registrant has been advised that in the opinion of the 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 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 of 1933, as amended, 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 to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Bethesda, State of Maryland, on July 11, 2006.

COSTAR GROUP, INC.

By: /s/ Andrew C. Florance  
Andrew C. Florance  
Chief Executive Officer and President

KNOW ALL PERSONS BY THESE PRESENTS, that each individual whose signature appears below constitutes and appoints Andrew C. Florance and Frank A. Carchedi, and each of them, his true and lawful attorneys-in-fact and agents, each acting alone, with full powers of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this registration statement, and to file the same, with all exhibits thereto and all other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as might or could be done in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, each acting alone, 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 of 1933, as amended, this Registration Statement has been signed by the following persons in the capacities indicated on the dates indicated.

SIGNATURE	CAPACITY	DATE
/s/ Michael R. Klein Michael R. Klein	Chairman of the Board	July 3, 2006
/s/ Andrew C. Florance Andrew C. Florance	Chief Executive Officer, President, and a Director (Principal Executive Officer)	July 11, 2006
/s/ Frank A. Carchedi Frank A. Carchedi	Chief Financial Officer (Principal Financial Officer)	July 11, 2006
/s/ David Bonderman David Bonderman	Director	June 30, 2006
/s/ Warren H. Haber Warren H. Haber	Director	June 29, 2006
/s/ Josiah O. Low, III	Director	July 5, 2006

Josiah O. Low, III

/s/ Christopher J. Nassetta

Director

July 3, 2006

Christopher J. Nassetta

/s/ Catherine B. Reynolds

Director

June 28, 2006

Catherine B. Reynolds

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# INDEX TO EXHIBITS

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