

SOURCEFIRE INC  
Form S-8  
January 07, 2008

As filed with the Securities and Exchange Commission on January 7, 2008

Registration No. 333-\_\_\_\_\_

**UNITED STATES SECURITIES AND EXCHANGE COMMISSION**  
**Washington, D.C. 20549**  
**FORM S-8**  
**REGISTRATION STATEMENT**  
**UNDER**  
**THE SECURITIES ACT OF 1933**  
**Sourcefire, Inc.**

(Exact name of registrant as specified in its charter)

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

**52-2289365**  
(I.R.S. Employer  
Identification No.)

**9770 Patuxent Woods Drive**  
**Columbia, Maryland 21046**  
**(410) 290-1616**

(Address of principal executive offices)

**Sourcefire, Inc. 2007 Employee Stock Purchase Plan**

(Full title of the Plan(s))

**Douglas W. McNitt**  
**General Counsel and Secretary**  
**Sourcefire, Inc.**

**9770 Patuxent Woods Drive**  
**Columbia, Maryland 21046**

(Name and address of agent for service)

**(410) 290-1616**

(Telephone number, including area code, of agent for service)

**CALCULATION OF REGISTRATION FEE**

Title of Securities to be Registered	Amount to be registered(1)	Proposed maximum offering price per share(2)	Proposed maximum aggregate offering price(2)	Amount of registration fee
Common Stock, par value \$0.001 per share	1,000,000 shares	\$8.07	\$8,070,000	\$317.15

- (1) Such shares reserved for future issuance upon exercise of options to be granted under the Sourcefire, Inc. 2007 Employee Stock Purchase Plan.

- (2) Estimated solely for the purpose of calculating the registration fee. Pursuant to Rule 457(c) and Rule 457(h) under the Securities Act, the proposed maximum offering price per share and the proposed maximum aggregate offering price have been determined on the basis of the average of the high and low prices reported on the Nasdaq Market on January 3, 2008.
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**PART I**  
**INFORMATION REQUIRED IN THE**  
**SECTION 10(A) PROSPECTUS**

The information required by Part I is included in the documents sent or given to participants in the Sourcefire, Inc. 2007 Employee Stock Purchase Plan, pursuant to Rule 428(b)(1) under the Securities Act of 1933, as amended (the Securities Act ).

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

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

The Registrant is subject to the informational and reporting requirements of Sections 13(a), 14 and 15(d) of the Securities and Exchange Act of 1934, as amended (the Exchange Act ), and in accordance therewith files reports, proxy statements and other information with the Securities and Exchange Commission (the Commission ). The following documents, which are on file with the Commission, are incorporated in this Registration Statement by reference, except that we do not incorporate any document or portion of a document that is furnished to the Commission, but not deemed filed :

the Registrant s Prospectus, filed on March 8, 2007, pursuant to Rule 424(b) under the Securities Act relating to the Registrant s Registration Statement on Form S-1, as amended (Registration No. 333-138199); and

the Registrant s Quarterly Reports on Form 10-Q for the quarters ended March 31, 2007, June 30, 2007 and September 30, 2007; and

the Registrant s Current Reports on Form 8-K, other than information furnished pursuant to Item 2.02 or Item 7.01 of Form 8-K, filed since March 8, 2007.

All documents subsequently filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act after the date of this Registration Statement, and prior to the filing of a post-effective amendment which indicates that all securities offered hereby have been sold or which de-registers all securities then remaining unsold, shall be deemed to be incorporated by reference in this Registration Statement and to be a part hereof from the date of filing of such documents. Any statement contained in a document incorporated or deemed to be incorporated by reference herein 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 other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such 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.

***Item 4. Description of Securities.***

Not applicable.

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

Not applicable.

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

Section 102(b)(7) of the Delaware General Corporation Law (the "DGCL") enables a Delaware corporation to provide in its certificate of incorporation for the elimination or limitation of the personal liability of a director to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. Any such provision cannot eliminate or limit a director's liability: (1) for any breach of the director's duty of loyalty to the corporation or its stockholders; (2) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; (3) under Section 174 of the DGCL (which imposes liability on directors for unlawful payment of dividends or unlawful stock purchase or redemption); or (4) for any transaction from which the director derived an improper personal benefit. Article Seven of the Registrant's Sixth Amended and Restated Certificate of Incorporation, as amended (the "Charter"), eliminates the personal liability of each of the Registrant's directors to the Registrant and its stockholders for monetary damages for breach of fiduciary duty as a director to the full extent permitted by Delaware Law.

Section 145 of the DGCL provides that a corporation has the power to indemnify a director, officer, employee or agent of the corporation and certain other persons serving at the request of the corporation in related capacities against amounts paid and expenses incurred in connection with an action or proceeding to which he is or is threatened to be made a party by reason of such position, if such person shall have acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation and, in any criminal proceeding, if such person had no reasonable cause to believe his conduct was unlawful; provided that, in the case of actions brought by or in the right of the corporation, no indemnification shall be made with respect to any matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the adjudicating court determines that such indemnification is proper under the circumstances.

Article Eight of the Registrant's Charter provides for the indemnification of any person who is or was a director, officer or agent of the Registrant to the fullest extent authorized by the DGCL. Article Five of the Registrant's Fourth Amended and Restated Bylaws (the "Bylaws") provides for the indemnification of any person who is or was a director, officer, employee or agent of the Registrant to the fullest extent authorized by the DGCL.

In addition to the indemnification provided in the Registrant's Charter and Bylaws and by Delaware law, the Registrant has entered into indemnification agreements with its directors and executive officers to provide additional contractual assurances regarding the scope of indemnification and to provide additional procedural protections.

The Registrant also carries insurance policies that cover its individual directors and officers for legal liability and which would pay on their behalf for expenses of indemnifying them in accordance with the Charter, the Bylaws and Delaware law.

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

Not applicable.

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**Item 8. Exhibits.**

**Exhibit**

**Number Document**

- 4.1 Sixth Amended and Restated Certificate of Incorporation of Sourcefire, Inc. (filed as Exhibit 3.1 to the Registrant's Quarterly Report on Form 10-Q for the quarter ended March 31, 2007, and incorporated herein by this reference).
- 4.2 Fourth Amended and Restated Bylaws of Sourcefire, Inc. (filed as Exhibit 3.2 to the Registrant's Quarterly Report on Form 10-Q for the quarter ended March 31, 2007, and incorporated herein by this reference).
- 4.3 Form of stock certificate of Registrant's Common Stock (filed as Exhibit 4.1 to the Registrant's Registration Statement on Form S-1, as amended (File No. 333-138199) and incorporated herein by this reference)
- 4.4 Sourcefire, Inc. 2002 Stock Incentive Plan (filed as Exhibit 4.2 to the Registrant's Registration Statement on Form S-1, as amended (File No. 333-138199) and incorporated herein by this reference).
- 4.5 Sourcefire, Inc. 2007 Stock Incentive Plan (filed as Exhibit 4.3 to the Registrant's Registration Statement on Form S-1, as amended (File No. 333-138199) and incorporated herein by this reference).
- 4.6 Form of Nonstatutory Stock Option Grant Agreement under the 2002 Stock Incentive Plan (filed as Exhibit 4.4 to the Registrant's Registration Statement on Form S-1, as amended (File No. 333-138199) and incorporated herein by this reference).
- 4.7 Form of Notice of Stock Option Award under the 2007 Stock Incentive Plan (filed as Exhibit 4.5 to the Registrant's Registration Statement on Form S-1, as amended (File No. 333-138199) and incorporated herein by this reference).
- 4.8 Form of Notice of Restricted Stock Purchase Award under the 2007 Stock Incentive Plan (filed as Exhibit 4.6 to the Registrant's Registration Statement on Form S-1, as amended (File No. 333-138199) and incorporated herein by this reference).
- 4.9 Form of Notice of Restricted Stock Purchase Award for Non-Employee Directors under the 2007 Stock Incentive Plan (filed as Exhibit 4.7 to the Registrant's Registration Statement on Form S-1, as amended (File No. 333-138199) and incorporated herein by this reference).
- 4.10 Sourcefire, Inc. 2007 Employee Stock Purchase Plan (filed as Exhibit 10.1 to the Registrant's Current Report on Form 8-K, filed with the Commission on October 4, 2007, and incorporated herein by this reference)
- 5.1 Opinion of Morrison & Foerster LLP (filed herewith)
- 23.1 Consent of Morrison & Foerster LLP (contained in Exhibit 5.1)
- 23.2 Consent of Ernst & Young LLP (filed herewith)
- 24.1 Power of Attorney (included on signature page hereof)

***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 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; 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) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Commission by the registrant pursuant to Section 13 or 15(d) of the Exchange Act of 1934 that are incorporated by reference in the 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 foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act of 1933 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 of 1933 and will be governed by the final adjudication of such issue.

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**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant, Sourcefire, Inc., 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 Columbia, Maryland, State of Maryland on January 7, 2008.

**SOURCEFIRE, INC.**

By: /s/ E. Wayne Jackson  
 E. Wayne Jackson  
 Chief Executive Officer

**POWER OF ATTORNEY**

Each person whose signature appears below constitutes and appoints Todd P. Headley and Douglas W. McNitt, and each of them, as attorneys-in-fact, each with the power of substitution, for him in any and all capacities, to sign any amendment to this Registration Statement and to file the same, with exhibits thereto and other documents in connection therewith, with the Commission, granting to said attorneys-in-fact, full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming the said attorney-in-fact or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

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

<b>Signature</b>	<b>Title</b>	<b>Date</b>
/s/ E. Wayne Jackson, III E. Wayne Jackson, III	Chief Executive Officer and Director (principal executive officer)	January 7, 2008
/s/ Todd P. Headley Todd P. Headley	Chief Financial Officer and Treasurer (principal financial and accounting officer)	January 7, 2008
/s/ Martin F. Roesch Martin F. Roesch	Chief Technology Officer and Director	January 7, 2008
/s/ Asheem Chandna Asheem Chandna	Director	January 2, 2008



<b>Signature</b>	<b>Title</b>	<b>Date</b>
/s/ Tim A. Guleri Tim A. Guleri	Director	January 7, 2008
/s/ Joseph R. Chinnici Joseph R. Chinnici	Director	January 2, 2008
/s/ Steven R. Polk Steven R. Polk	Director	January 7, 2008
/s/ Arnold L. Punaro Arnold L. Punaro	Director	January 1, 2008

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**INDEX TO EXHIBITS**

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