

WIND RIVER SYSTEMS INC  
Form 8-A12B/A  
June 04, 2009

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 8-A/A**

**FOR REGISTRATION OF CERTAIN CLASSES OF SECURITIES**  
**PURSUANT TO SECTION 12(b) OR (g) OF THE**  
**SECURITIES EXCHANGE ACT OF 1934**

**WIND RIVER SYSTEMS, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**  
(State of incorporation

or organization)

**500 Wind River Way Alameda, CA 94588**

(Address of principal executive offices) (Zip Code)

**94-2873391**  
(I.R.S. Employer

Identification No.)

**Securities to be registered pursuant to Section 12(b) of the Act:**

**Title of each class**

**Name of each exchange on which**

**to be so registered**

**each class is to be registered**

**Preferred Share Purchase Rights**

**The NASDAQ Stock Market LLC**

If this form relates to the registration of a class of securities pursuant to Section 12(b) of the Exchange Act and is effective pursuant to General Instruction A.(c), check the following box:

If this form relates to the registration of a class of securities pursuant to Section 12(g) of the Exchange Act and is effective pursuant to General Instruction A.(d), check the following box:

Securities Act registration statement file number to which this form relates: Not applicable.

Securities to be registered pursuant to Section 12(g) of the Act: Not applicable

**AMENDMENT NO. 1 TO FORM 8-A**

We hereby amend the following items, exhibits or other portions of our Form 8-A filed on October 3, 2006, related to our Amended and Restated Rights Agreement, as set forth below.

**Item 1. Description of Securities to be Registered.**

Item 1 of the Form 8-A is amended and supplemented by adding the following:

On June 4, 2009, Wind River Systems, Inc. ( Wind River ) announced that it entered into an Agreement and Plan of Merger, dated as of June 4, 2009 (the Merger Agreement ), by and among Wind River, Intel Corporation, a Delaware corporation ( Parent ), and APC II Acquisition Corporation, a Delaware corporation and a wholly owned subsidiary of Parent ( Purchaser ), pursuant to which it is proposed that Purchaser make a cash tender offer to acquire all of the issued and outstanding shares of common stock of the Company (as may be amended from time to time, the Offer ), to be followed by a merger of Purchaser with and into the Company, with the Company surviving the merger as a wholly-owned subsidiary of Parent, upon the terms and subject to the conditions of the Merger Agreement.

Immediately prior to the execution of the Merger Agreement, American Stock Transfer and Trust Company (the Rights Agent ), entered into the First Amendment (the First Amendment ) to the Amended and Restated Rights Agreement between Wind River and the Rights Agent dated as of September 29, 2006 (the Amended Rights Agreement ), which amends and restates the Rights Agreement between Wind River and the Rights Agent dated as of October 22, 1999. Capitalized terms used but not defined herein shall have the meaning assigned thereto in the Amended Rights Agreement, as amended.

The First Amendment provides that none of (i) the adoption, approval, execution or delivery of the Merger Agreement and the Tender and Support Agreement by and between Wind River and certain of its stockholders (the Stockholders ) (the Stockholder Agreement ), (ii) the public announcement of such adoption, approval, execution or delivery, (iii) the making of the Offer, (iv) the acceptance for payment or payment for Company Shares (as defined in the Merger Agreement) by Purchaser pursuant to the Offer, or (v) the consummation of the transactions specifically contemplated by the Merger Agreement and the Tender Agreement, each upon the terms and subject to the conditions of the Merger Agreement (the transactions described in clauses (i) through (v) together with any related transaction, the Exempted Transactions ), will trigger the separation or exercise of the Rights or any adverse event under the Amended Rights Agreement. In particular, none of Parent, Purchaser, Stockholders, nor any of their respective Affiliates or Associates, shall be deemed to be an Acquiring Person or a Beneficial Owner, and none of a Distribution Date, a Shares Acquisition Date, or a Transaction shall be deemed to have occurred, in each case by virtue of or as a result of any Exempted Transaction.

The foregoing descriptions of the First Amendment and the Amended Rights Agreement do not purport to be complete and are qualified in their respective entireties by reference to the full text of the First Amendment, which is attached hereto as Exhibit 4.2, and incorporated herein by reference, and the Amended Rights Agreement, which is attached as Exhibit 4.1 to the Form 8-K filed on October 3, 2006, and incorporated herein by reference.

**Item 2. Exhibits**

**Exhibit No. Description**

- |        |  |
|--------|--|
| 3.1(1) | Amended and Restated Certificate of Incorporation of Wind River Systems, Inc., as amended.   |
| 3.2(2) | Certificate of Designation of Series A Junior Participating Preferred Stock.   |
| 4.1(3) | Amended and Restated Rights Agreement, dated as of September 29, 2006, between Wind River Systems, Inc. and American Stock Transfer and Trust Company, as Rights Agent.              |
| 4.2    | First Amendment to Amended and Restated Rights Agreement, dated as of June 4, 2009, between Wind River Systems, Inc. and American Stock Transfer and Trust Company, as Rights Agent. |

- (1) Incorporated herein by reference to Exhibits 3.1(a)-(d) to Wind River s Form 10-Q filed on December 15, 2000.
- (2) Incorporated herein by reference to Exhibit 4.1 to Wind River s Form 8-K filed on November 4, 1999.
- (3) Incorporated herein by reference to Exhibit 4.1 to Wind River s Form 8-K filed on October 3, 2006.



**SIGNATURE**

Pursuant to the requirements of Section 12 of the Securities Exchange Act of 1934, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereto duly authorized.

Dated: June 4, 2009

**WIND RIVER SYSTEMS, INC.**

By: /s/ Ian Halifax  
Ian Halifax  
Senior Vice President Finance and Administration,

Chief Financial Officer and Secretary

**EXHIBIT INDEX**

| <b>Exhibit No.</b> | <b>Description</b>   |
|--------------------|--|
| 3.1(1)             | Amended and Restated Certificate of Incorporation of Wind River Systems, Inc., as amended.   |
| 3.2(2)             | Certificate of Designation of Series A Junior Participating Preferred Stock.   |
| 4.1(3)             | Amended and Restated Rights Agreement, dated as of September 29, 2006, between Wind River Systems, Inc. and American Stock Transfer and Trust Company, as Rights Agent.              |
| 4.2                | First Amendment to Amended and Restated Rights Agreement, dated as of June 4, 2009, between Wind River Systems, Inc. and American Stock Transfer and Trust Company, as Rights Agent. |

- (1) Incorporated herein by reference to Exhibits 3.1(a)-(d) to Wind River's Form 10-Q filed on December 15, 2000.
- (2) Incorporated herein by reference to Exhibit 4.1 to Wind River's Form 8-K filed on November 4, 1999.
- (3) Incorporated herein by reference to Exhibit 4.1 to Wind River's Form 8-K filed on October 3, 2006.