

CADENCE DESIGN SYSTEMS INC
Form S-8
July 23, 2018

As filed with the Securities and Exchange Commission on July 23, 2018

Registration No. 333-

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

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

CADENCE DESIGN SYSTEMS, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

2655 Seely Avenue, Building 5

00-0000000
(I.R.S. Employer

Identification No.)

San Jose, California 95134

(Address of Principal Executive Offices) (Zip Code)

nusemi inc

2015 Equity Incentive Plan

(Full title of the plan)

James J. Cowie, Esq.

Senior Vice President, General Counsel and Secretary

Cadence Design Systems, Inc.

2655 Seely Avenue, Building 5

San Jose, California 95134

(Name and address of agent for service)

(408) 943-1234

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

Copy to:

Martin A. Wellington, Esq.

Sidley Austin LLP

1001 Page Mill Road

Palo Alto, CA 94304

(650) 565-7000

Indicate by check mark whether the Registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of large accelerated filer, accelerated filer, smaller reporting company, and emerging growth company in Rule 12b-2 of the Exchange Act.

Large accelerated filer Accelerated filer
 Non-accelerated filer (Do not check if a smaller reporting company) Smaller reporting company
 Emerging growth company

If an emerging growth company, indicate by check mark if the Registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.

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(2) |
|---|-----------------------------------|---|---|--------------------------------------|
| Common Stock, par value \$0.01 per share | 348,754 (3) | \$45.17 | \$15,753,218.18 | \$1,961.28 |

- (1) This Registration Statement on Form S-8 shall also cover any additional shares of common stock of Cadence Design Systems, Inc. (the Registrant) that become issuable under the nusemi inc 2015 Equity Incentive Plan (the Nusemi Plan) by reason of any stock dividend, stock split, recapitalization or other similar transaction effected without the receipt of consideration that results in an increase in the number of outstanding shares of the Registrant's common stock.
- (2) Calculated solely for purposes of calculating the amount of the registration fee under Rule 457(h) of the Securities Act of 1933, as amended. The price per share and aggregate offering price are based upon the average of the high and low prices of common stock of the Registrant on July 16, 2018 as reported on the Nasdaq Global Select Market.
- (3) Represents shares of common stock authorized to be issued under the Nusemi Plan, which was assumed by the Registrant in connection with its acquisition of nusemi inc (nusemi) pursuant to an Agreement and Plan of Merger, dated as of October 31, 2017, by and among nusemi, the Registrant, Tundra Holdings, Inc., Patriots Subsidiary Corporation and the stockholders agent.

EXPLANATORY NOTE

This Registration Statement on Form S-8 is filed for the purpose of registering shares of common stock, par value \$0.01 per share (the Common Stock), of Cadence Design Systems, Inc. (the Registrant) that may be issued pursuant to future equity awards granted under the nusemi inc 2015 Equity Incentive Plan (the Nusemi Plan). The Nusemi Plan was assumed by the Registrant in connection with the Registrant's acquisition of nusemi inc (nusemi) pursuant to an Agreement and Plan of Merger, dated as of October 31, 2017, by and among nusemi, the Registrant, Tundra Holdings, Inc., Patriots Subsidiary Corporation and the stockholders agent.

PART I

Information Required in the Section 10(a) Prospectus

The prospectus containing information required by Part I of Form S-8 and related to this Registration Statement is omitted from this Registration Statement in accordance with the note to Part I of Form S-8. The Registrant will send or give to each holder of awards granted under the Nusemi Plan a copy of the prospectus or documents containing information specified in Part I of Form S-8, as specified by Rule 428(b)(1) of the Securities Act of 1933, as amended (the Securities Act). In accordance with the rules and regulations of the Securities and Exchange Commission (the SEC), the prospectus for the Nusemi Plan is not being filed with or included in this Registration Statement. The prospectus for the Nusemi Plan and the documents incorporated by reference into this Registration Statement pursuant to Item 3 of Part II of this Registration Statement, taken together, constitute a prospectus that meets the requirements of Section 10(a) of the Securities Act.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference

The following documents filed by the Registrant with the SEC are incorporated by reference in this Registration Statement:

- (a) The Registrant's Annual Report on Form 10-K for the fiscal year ended December 30, 2017, filed with the SEC on February 20, 2018;
- (b) All other reports filed pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended (the Exchange Act), since the end of the fiscal year covered by the Registrant's Annual Report referred to in (a) above;
- (c) The description of the Registrant's Common Stock contained in its registration statement on Form 8-A, filed with the SEC on January 12, 2006, including any amendment or report filed for the purpose of updating such description; and
- (d) All other documents filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act on or after the date of this Registration Statement and prior to the filing of a post-effective amendment to this Registration Statement that indicates that all securities offered have been sold, or that deregisters all securities then remaining unsold. Notwithstanding the foregoing, the Registrant is not incorporating by reference any documents, portions of documents, exhibits or other information that is deemed to have been furnished to, rather than filed with, the SEC.

Item 4. Description of Securities

Not applicable.

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Item 5. Interests of Named Experts and Counsel

Not applicable.

Item 6. Indemnification of Directors and Officers

Section 145 of the Delaware General Corporation Law permits a corporation to indemnify any of its directors or officers who was or is a party or is threatened to be made a party to any third party proceeding by reason of the fact that such person is or was a director or officer of the corporation against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding, if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe that such person's conduct was unlawful. In a derivative action, i.e., one by or in the right of a corporation, the corporation is permitted to indemnify any of its directors or officers against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the corporation, except that no indemnification shall be made if such person shall have been adjudged liable to the corporation, unless and only to the extent that the court in which such action or suit was brought shall determine upon application that such person is fairly and reasonably entitled to indemnity for such expenses despite such adjudication of liability.

Article VII of the Registrant's currently effective Certificate of Incorporation eliminates the personal liability of its directors for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the Delaware General Corporation Law or (iv) for any transaction from which the director derived an improper personal benefit. In addition, as permitted by Section 145 of the Delaware General Corporation Law, the Bylaws of the Registrant provide that: (a) the Registrant is required to indemnify its directors and officers and persons serving in such capacities in other business entities (including, for example, subsidiaries of the Registrant) at the Registrant's request (such directors, officers and other persons are hereinafter referred to collectively as, "Covered Persons"), to the fullest extent permitted by Delaware law, including those circumstances in which indemnification would otherwise be discretionary; (b) the Registrant is required to advance expenses as incurred to such Covered Persons in connection with defending a proceeding; (c) the indemnitee(s) of the Registrant have the right to bring suit, and to be paid the expenses of prosecuting such suit, if successful, to enforce the rights to indemnification under the Bylaws or to advancement of expenses under the Bylaws; (d) the rights conferred in the Bylaws are not exclusive and the Registrant is authorized to enter into indemnification agreements with such directors, officers and employees; (e) the Registrant is required to maintain director and officer liability insurance to the extent reasonably available; and (f) the Registrant may not retroactively amend the Bylaws indemnification provision in a way that is adverse to such Covered Persons.

The Registrant has entered into indemnity agreements with each of its executive officers and directors that provide the maximum indemnity allowed to officers and directors by Section 145 of the Delaware General Corporation Law and the Bylaws, as well as certain additional procedural protections. The Registrant also maintains a limited amount of director and officer insurance. The indemnification provision in the Bylaws, and the indemnity agreements entered into between the Registrant and its officers or directors, may be sufficiently broad to permit indemnification of the Registrant's officers and directors for liability arising under the Securities Act.

Item 7. Exemption from Registration Claimed

Not applicable.

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Item 8. Exhibits

| Exhibit Number | Exhibit Title | Incorporated By Reference | | | Provided Herewith |
|----------------|---|---------------------------|-----------|-------------------------|-------------------|
| | | Form | File No. | Exhibit No. Filing Date | |
| 4.01 | <u>Restated Certificate of Incorporation, as filed with the Secretary of State of the State of Delaware on May 13, 1998.</u> | 10-Q | 001-10606 | 3.01(j) 8/18/1998 | |
| 4.02 | <u>Certificate of Designation for the Series A Junior Participating Preferred Stock, as amended on February 1, 2000.</u> | 10-K | 001-10606 | 4.02 3/27/2000 | |
| 4.03 | <u>The Registrant's Amended and Restated Bylaws, effective as of February 7, 2018.</u> | 8-K | 000-15867 | 3.01 2/12/2018 | |
| 4.04 | Specimen Certificate of the Registrant's Common Stock. | S-4 | 033-43400 | 4.01 10/17/1991 | (P) |
| 4.05 | <u>Base Indenture, dated October 9, 2014, between the Registrant and Wells Fargo Bank, N.A., as trustee.</u> | 8-K | 000-15867 | 4.01 10/9/2014 | |
| 4.06 | <u>First Supplemental Indenture, dated October 9, 2014, between the Registrant and Wells Fargo Bank, N.A., as trustee (including the Form of 4.375% Senior Notes due 2024).</u> | 8-K | 000-15867 | 4.02 10/9/2014 | |
| 5.01 | <u>Opinion and Consent of Sidley Austin LLP.</u> | | | | X |
| 23.01 | <u>Consent of Independent Registered Public Accounting Firm.</u> | | | | X |
| 23.02 | <u>Consent of Sidley Austin LLP (contained in Exhibit 5.01).</u> | | | | X |
| 24.01 | <u>Power of Attorney (included on the signature pages to this Registration Statement on Form S-8).</u> | | | | X |
| 99.01 | <u>nusemi inc 2015 Equity Incentive Plan.</u> | | | | X |

(P) Paper exhibit.

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;

(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 SEC 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;

(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 reports filed with or furnished to the SEC by the Registrant pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference in this Registration Statement.

(2) 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 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, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where

applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) 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 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 SEC 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, 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 San Jose, state of California, on this 23rd day of July, 2018.

CADENCE DESIGN SYSTEMS, INC.

By: /s/ Lip-Bu Tan
Lip-Bu Tan
Chief Executive Officer and Director

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POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Lip-Bu Tan, John M. Wall and James J. Cowie, and each of them, his or her true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for him or her and in his or her 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 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 connection therewith, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them, or their or his or her substitutes or substitute, may lawfully 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 date indicated.

| Signature | Title | Date |
|---|--|---------------|
| /s/ Lip-Bu Tan | Chief Executive Officer and Director | July 23, 2018 |
| Lip-Bu Tan | (Principal Executive Officer) | |
| /s/ John M. Wall | Senior Vice President and Chief Financial Officer | July 23, 2018 |
| John M. Wall | (Principal Financial Officer and Principal Accounting Officer) | |
| /s/ Dr. John B. Shoven | Chairman of the Board of Directors | July 23, 2018 |
| Dr. John B. Shoven | | |
| /s/ Mark W. Adams | Director | July 23, 2018 |
| Mark W. Adams | | |
| /s/ Susan L. Bostrom | Director | July 23, 2018 |
| Susan L. Bostrom | | |
| /s/ Dr. James D. Plummer | Director | July 23, 2018 |
| Dr. James D. Plummer | | |
| /s/ Dr. Alberto Sangiovanni-Vincentelli | Director | July 23, 2018 |
| Dr. Alberto Sangiovanni-Vincentelli | | |
| /s/ Roger S. Siboni | Director | July 23, 2018 |
| Roger S. Siboni | | |

/s/ Young K. Sohn

Director

July 23, 2018

Young K. Sohn

/s/ Mary Agnes Wilderotter

Director

July 23, 2018

Mary Agnes Wilderotter

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