

NETLIST INC  
Form S-8  
June 13, 2008

As filed with the Securities Exchange Commission on June 13, 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**

**NETLIST, INC.**

(Exact name of registrant as specified in its charter)

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

**95-4812784**  
(I.R.S. Employer  
Identification No.)

**51 Discovery**

**Irvine, CA 92618**

(Address of Principal Executive Offices) (Zip Code)

**2006 Equity Incentive Plan of Netlist, Inc.**

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(Full title of the plans)

**Chun K. Hong**

**President, Chief Executive Officer and Chairman of the Board**

**51 Discovery, Irvine, CA 92618**

(Name and address of agent for service)

**(949) 435-0025**

(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	Amount of Registration Fee
Common Stock, par value \$0.001 per share, issuable under the 2006 Equity Incentive Plan (3)	500,000	\$ 1.735	\$ 867,500	\$ 34.09
(1)	Pursuant to Rule 416 under the Securities Act of 1933, as amended, this registration statement shall also cover any additional shares of Common Stock which become issuable upon exercise of options granted under the 2006 Equity Incentive Plan by reason of any stock dividend, stock split, recapitalization or other similar transaction effected without the receipt of consideration which results in an increase in the number of the outstanding shares of Common Stock of Netlist, Inc.			
(2)	Estimated solely for the purpose of calculating the registration fee pursuant to Rules 457(h)(1) and 457(c), based on the average of the high and low sales prices of the Company's Common Stock on June 9, 2008.			
(3)	Represents shares of Common Stock that were automatically added to the shares authorized for issuance under our 2006 Equity Incentive Plan on January 1, 2008 pursuant to an evergreen provision contained therein.			

**EXPLANATORY NOTE**

This Registration Statement on Form S-8 is being filed for the purpose of registering an additional 500,000 shares of Common Stock, par value \$0.001 per share, of Netlist, Inc. (the Company), issuable pursuant to the Company's 2006 Equity Incentive Plan (the Plan). The terms of the Plan provide that the number of shares of Common Stock issuable pursuant to the Plan will automatically increase on the first day of each year by 500,000 shares (or by such smaller number of shares as may be determined by the Company's board of directors).

**Part II**

**INFORMATION REQUIRED IN THE REGISTRATION STATEMENT**

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

Pursuant to General Instruction E to Form S-8 regarding the registration of additional securities of the Company, the Company hereby incorporates herein by reference the contents of the Registration Statement of the Company on Form S-8 filed with the Securities and Exchange Commission on December 18, 2006, Registration No. 333-139435, with respect to the Company's Amended and Restated 2000 Equity Incentive Plan and 2006 Equity Incentive Plan.

**Item 8. Exhibits.**

- 5.1 Opinion of Bingham McCutchen LLP as to the legality of the common stock registered hereby.
- 23.1 Consent of KMJ Corbin & Company LLP.
- 23.2 Consent of Bingham McCutchen LLP (included in Exhibit 5.1).
- 24.1 Power of Attorney (included on signature page hereto).

**SIGNATURES**

Pursuant to the requirements of the Securities Act, 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 Irvine, State of California, on this 13th day of June, 2008.

NETLIST, INC.

By:

/s/ Chun K. Hong  
Chun K. Hong  
President, Chief Executive Officer  
and Chairman of the Board

**POWER OF ATTORNEY**

Each person whose signature appears below hereby severally constitutes and appoints Chun K. Hong and Gail Itow, and each of them singly, his true and lawful attorneys-in-fact and agents with full power 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 other documents in connection therewith, with the SEC, 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 or necessary to be done, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them, or their 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 dates indicated.

<b>Signature</b>	<b>Title(s)</b>	<b>Date</b>
/s/ Chun K. Hong Chun K. Hong	President, Chief Executive Officer and Chairman of the Board (Principal Executive Officer)	June 10, 2008
/s/ Gail Itow Gail Itow	Vice President, Chief Financial Officer (Principal Financial and Accounting Officer)	June 10, 2008
/s/ Nam Ki Hong Nam Ki Hong	Director	June 10, 2008
/s/ Thomas F. Lagatta Thomas F. Lagatta	Director	June 10, 2008
/s/ Alan H. Portnoy Alan H. Portnoy	Director	June 10, 2008
/s/ David M. Rickey David M. Rickey	Director	June 10, 2008
/s/ Preston Romm Preston Romm	Director	June 10, 2008

**INDEX TO EXHIBITS**

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