

KVH INDUSTRIES INC \DE\
Form S-8
July 30, 2010

As filed with the Securities and Exchange Commission on July 29, 2010

Registration No. 333-

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM S-8
REGISTRATION STATEMENT

Under

THE SECURITIES ACT OF 1933

KVH Industries, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

05-0420589
(I.R.S Employer
Identification Number)

50 Enterprise Center

Middletown, Rhode Island 02842

(Address of Principal Executive Offices)(Zip Code)

KVH Industries, Inc. Third Amended and Restated

2006 Stock Incentive Plan

KVH Industries, Inc. Amended and Restated

1996 Employee Stock Purchase Plan

(Full title of the plan)

Martin A. Kits van Heyningen

President and Chief Executive Officer

KVH Industries, Inc.

50 Enterprise Center

Middletown, Rhode Island 02842

(Name and address of agent for service)

(401) 847-3327

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

With a copy to:

John D. Hancock, Esq.

Foley Hoag LLP

Seaport West

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155 Seaport Boulevard

Boston, Massachusetts 02210

(617) 832-1000

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

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

CALCULATION OF REGISTRATION FEE

| Title of securities to be registered | Amount to be registered (1) | Proposed maximum offering price per share | Proposed maximum aggregate offering price | Amount of registration fee |
|---|--|--|--|---|
| Common stock, \$0.01 par value | 2,250,000(2) | \$12.71(3) | \$28,597,500(3) | \$2,040 |
| Common stock, \$0.01 par value | 50,000(4) | \$12.71(3) | \$635,500(3) | \$46 |
| Total | | | | \$2,086 |

- (1) Pursuant to Rule 416, this Registration Statement also relates to such indeterminate number of additional shares as may be necessary to satisfy the anti-dilution provisions of the plans to which this Registration Statement relates.
- (2) Represents shares reserved for issuance pursuant to awards available for grant under the KVH Industries, Inc. Third Amended and Restated 2006 Stock Incentive Plan (the 2006 Plan).
- (3) The proposed maximum offering price per share of common stock and the proposed maximum aggregate offering price are calculated solely for the purpose of determining the registration fee pursuant to Rules 457(c) and (h)(1) under the Securities Act of 1933, based on the average of the high and low sale prices of the common stock as reported on the Nasdaq Global Market on July 23, 2010.
- (4) Represents shares reserved for issuance pursuant to the KVH Industries, Inc. Amended and Restated 1996 Employee Stock Purchase Plan.

This registration statement covers an aggregate of 2,250,000 shares of common stock issuable pursuant to our Third Amended and Restated 2006 Stock Incentive Plan, as amended (the 2006 Plan), and 50,000 shares of common stock issuable pursuant to our Amended and Restated 1996 Employee Stock Purchase Plan, as amended (the 1996 Plan, and together with the 2006 Plan, the Plans). These shares are in addition to the shares of common stock registered pursuant to the registration statement on Form S-8, File No. 333-160230, which we filed with the Securities and Exchange Commission on June 25, 2009, and the registration statement on Form S-8, File No. 333-141404, which we filed with the Securities and Exchange Commission on March 19, 2007. The reservation of these 2,300,000 additional shares for issuance pursuant to the Plans was approved by our board of directors on April 8, 2010 and by our stockholders on May 26, 2010.

The contents of our registration statements on Form S-8, File Nos. 333-160230 and 333-141404, are incorporated herein by reference.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 8. Exhibits.

The following exhibits are filed herewith:

| Exhibit Number | Description |
|---------------------------|--|
| 4.1 | Certificate of Amendment of Certificate of Incorporation dated July 28, 2010 (filed as Exhibit 3.1 to our current report on Form 8-K filed with the SEC on July 29, 2010 and incorporated herein by reference) |
| 5.1 | Opinion of Foley Hoag LLP |
| 23.1 | Consent of KPMG LLP |
| 23.2 | Consent of Foley Hoag LLP (included in Exhibit 5.1) |
| 24.1 | Power of Attorney (included on signature page) |

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 Town of Middletown, Rhode Island on July 29, 2010.

KVH Industries, Inc.

By: /s/ PATRICK J. SPRATT
Patrick J. Spratt, Chief Financial Officer

POWER OF ATTORNEY

KNOW ALL BY THESE PRESENTS that each individual whose signature appears below hereby constitutes and appoints Martin A. Kits van Heyningen, Patrick J. Spratt and Felise Feingold, and each of them, his or her true and lawful attorneys-in-fact and agents with full power of substitution, 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 all 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 which they, or any of them, may deem necessary or advisable to be done in connection with this registration statement, 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 any substitute or substitutes for him, any or all of them, 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 dates indicated:

| Signature | Title | Date |
|--|--|---------------|
| <i>/s/</i> MARTIN A. KITS VAN HEYNINGEN Martin A. Kits van Heyningen | President, Chief Executive Officer and Chairman of the Board <i>(principal executive officer)</i> | July 29, 2010 |
| <i>/s/</i> PATRICK J. SPRATT Patrick J. Spratt | Chief Financial Officer <i>(principal financial and accounting officer)</i> | July 29, 2010 |
| <i>/s/</i> ROBERT W.B. KITS VAN HEYNINGEN Robert W.B. Kits van Heyningen | Director | July 29, 2010 |
| <i>/s/</i> MARK S. AIN Mark S. Ain | Director | July 29, 2010 |
| <i>/s/</i> STANLEY K. HONEY Stanley K. Honey | Director | July 29, 2010 |
| <i>/s/</i> BRUCE J. RYAN Bruce J. Ryan | Director | July 29, 2010 |
| <i>/s/</i> CHARLES R. TRIMBLE | Director | July 29, 2010 |

Charles R. Trimble

EXHIBIT INDEX

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