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BLUEFLY INC
Form S-8 POS
April 28, 2003

As filed with the Securities and Exchange Commission on April 28, 2003

Registration No. 333-76079

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

POST EFFECTIVE AMENDMENT NO. 4
TO
FORM S-8
REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

BLUEFLY, INC.
(Exact name of registrant as specified in its charter)

DELAWARE 13-3612110
(State or other jurisdiction of (I.R.S. Employer Identification No.)
incorporation or organization)

42 West 39th Street 10018
New York, New York (Zip Code)
(Address of Principal Executive Offices)

BLUEFLY, INC. 1997 STOCK OPTION PLAN
(Full title of the plan)

E. KENNETH SEIFF RICHARD A. GOLDBERG, ESQ.
President and Chief Executive Officer Swidler Berlin Shereff Friedman, LLP
Bluefly, Inc. 405 Lexington Avenue
42 West 39th Street New York, New York 10174
New York, New York 10018 (212) 973-0111
(212) 944-8000

(Name, address and telephone number, including area code, of agents for service)

CALCULATION OF REGISTRATION FEE

| TITLE OF SECURITIES TO BE REGISTERED | AMOUNT TO BE REGISTERED (1) (2) | PROPOSED MAXIMUM OFFERING PRICE PER SHARE (3) | PROPOSED MAXIMUM AGGREGATE OFFERING PRICE (3) | R |
|--|------------------------------------|---|---|---|
| Common Stock, par value \$.01 per share | 6,800,000 | \$ 0.87 | \$ 5,882,547 | |

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- (1) Pursuant to Rule 416, this Registration Statement also covers such additional securities as may become issuable to prevent dilution resulting from stock splits, stock dividends or similar transactions.
- (2) The securities registered hereby represent an addition to the 6,800,000 shares of common stock issuable under the Bluefly, Inc. 1997 Stock Option Plan which were registered previously on this Registration Statement.
- (3) Estimated in accordance with Rule 457(c) and (h) of the Securities Act of 1933, as amended (the "Act"), solely for the purpose of calculation of the registration fee. The fee was based on the fact that options for 2,868,912 shares have been granted at a weighted average exercise price of \$0.92, and the remaining 3,931,088 are based on the average of the high and low price for shares of common stock, par value \$0.01 per share, of the Registrant on the Nasdaq SmallCap Market on April 23, 2003 \$0.83.

EXPLANATORY NOTES

This Amendment No.4 to Registration Statement on Form S-8 is being filed to: (i) register an additional 6,800,000 shares of the Registrant's common stock, \$0.01 par value per share, issuable pursuant to the Registrant's 1997 Stock Option Plan, as amended to date; and (ii) amend the Registration Statement on Form S-8 (as amended to date, the "Registration Statement") (File No. 333-76079) filed with the Securities and Exchange Commission on April 12, 1999, by filing as exhibits thereto the consents of the Registrant's independent auditors to the filing with the Registrant's Annual Reports on Form 10-K for the years ended December 31, 2002 and 2001 of the independent auditor's report on the Registrant's financial statements for such years. The contents of the Registration Statement are incorporated herein by reference.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 8. Exhibits.

Item 8 of the Registration Statement is hereby amended and restated in its entirety as follows:

The following exhibits are filed as part of this Registration Statement:

| Exhibit Number. | Description. |
|-----------------|---|
| ----- | ----- |
| 4.1 | Bluefly, Inc. 1997 Stock Option Plan, as amended to date |
| 5.1* | Opinion of Swidler Berlin Shereff Friedman, LLP. |
| 23.1* | Consent of Pricewaterhouse Coopers LLP |
| 23.2* | Consent of Swidler Berlin Shereff Friedman, LLP (contained in Exhibit 5.1 |
| 23.3* | Consent of Pricewaterhouse Coopers, LLP |

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23.4

Consent of Pricewaterhouse Coopers, LLP

*Previously filed

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 Amendment No. 4 to Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of New York, State of New York on this 28th day of April, 2003.

BLUEFLY, INC.

By: /s/ E. Kenneth Seiff

E. Kenneth Seiff
President, Chief Executive
Officer and Director

KNOW ALL MEN BY THESE PRESENTS, that each of the undersigned whose signature appears below constitutes and appoints E. Kenneth Seiff and Patrick C. Barry and each of them (with full power of substitution and resubstitution for him and on his behalf, and in his name, place and stead, in any and all capacities to execute and sign any and all amendments or 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, hereby ratifying and confirming all that said attorneys-in-fact or any of them or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof and the Registrant hereby confers like authority on its behalf.

Pursuant to the requirements of the Securities Act of 1933, this Amendment No. 4 to Registration Statement has been signed by the following persons in the capacities and on this 28th day of April, 2003:

| Signature ----- | Titles ----- |
|---|---|
| /s/ E. Kenneth Seiff ----- E. Kenneth Seiff | President, Chief Executive Officer and Director (Principal Executive Officer) |
| /s/ Patrick C. Barry ----- Patrick C. Barry | Chief Operating Officer and Chief Financial Officer (Principal Financial and Accounting Officer) |
| /s/ Josephine R. Esquivel ----- Josephine R. Esquivel | Director |
| /s/ Martin Miller ----- | Director |

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Martin Miller

/s/ Robert G. Stevens Director

Robert G. Stevens

/s/ Neal Moszkowski Director

Neal Moszkowski

/s/ Alan Kane Director

Alan Kane

/s/ David Wassong Director

David Wassong

EXHIBIT INDEX

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Description.

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23.2* Consent of Swidler Berlin Shereff Friedman, LLP (contained in Exhibit 5.1)

23.3* Consent of Pricewaterhouse Coopers, LLP

23.4 Consent of Pricewaterhouse Coopers, LLP

*Previously filed