

EVOLVING SYSTEMS INC  
Form S-8  
March 07, 2003

As filed with the Securities and Exchange Commission on March 7, 2003

Registration No. 333-\_\_\_\_\_

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-8

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

EVOLVING SYSTEMS, INC.

(Exact Name of Registrant as Specified in its Charter)

Delaware

(State of Incorporation)

84-1010843

(I.R.S. Employer Identification  
No.)

9777 Mt. Pyramid Court

Englewood, Colorado 80112

(Address of Principal Executive Offices)

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Amended and Restated Stock Option Plan

Employee Stock Purchase Plan

(Full Title of the Plans)

George A. Hallenbeck

Chief Executive Officer, President and

Chairman of the Board

Evolving Systems, Inc.

9777 Mt. Pyramid Court

Englewood, Colorado 80112

(303) 802-1000

(Name, Address and Telephone Number, Including Area Code, of Agent for Service)

Copies to:

Charles D. Maguire, Esq.

Nick Nimmo, Esq.

Holme Roberts & Owen LLP

1700 Lincoln Street, Suite 4100

Denver, CO 80203

(303) 861-7000

CALCULATION OF REGISTRATION FEE

Title of Securities to be Registered	Amount to be Registered (1)	Proposed Maximum Offering Price Per	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
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		Share (4)		(5)
Common Stock, \$.001 Par Value	1,500,000 (2) 100,000 (3)	\$1.61	\$2,576,000	\$208.40

(1) This Registration Statement shall also cover any additional shares of Common Stock which become issuable 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 Registrant's outstanding shares of Common Stock.

(2) Increase in authorized number of shares underlying the Amended and Restated Stock Option Plan.

(3) Increase in authorized number of shares underlying the Employee Stock Purchase Plan.

(4) Estimated solely for the purpose of calculating the amount of the registration fee pursuant to Rules 457(c) and (h)(1) based upon the average of the high and low prices of the Registrant's Common Stock on March 6, 2003, as reported on The Nasdaq SmallCap Market.

(5) The registration fee for the securities registered hereby was calculated by multiplying the proposed maximum offering price by .0000809 in accordance with Section 6(b) of the Securities Act and the related rules.

EXPLANATORY NOTE

The contents of the earlier Registration Statement on Form S-8, Registration No. 333-82473, are hereby incorporated by reference.

The benefit plan securities covered by this Registration Statement are the same securities referred to in the post-effective amendment to registration statement on Form S-8, No. 333-82473, filed on May 19, 2000. This filing does not reflect any increase in benefit plan securities offered or issued by us.

EXHIBITS

Exhibit Number	Description
5.1	Opinion of Holme Roberts & Owen LLP (filed herewith).
10.1	Amended and Restated Stock Option Plan (incorporated by reference to Exhibit 10.2 to the Registrant's Registration Statement on Form S-1 (Registration No. 333-43973)).
10.2	Employee Stock Purchase Plan (incorporated by reference to Exhibit 10.3 to the Registrant's Registration Statement on Form S-1 (Registration No. 333-43973)).
23.1	Consent of PricewaterhouseCoopers LLP. (filed herewith)
23.2	Consent of Holme Roberts & Owen LLP (included in Exhibit 5.1).
24.1	Power of Attorney (included on page 4).

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 Englewood, State of Colorado, on the 5<sup>th</sup> day of March, 2003.

EVOLVING  
SYSTEMS  
INC.

By:  
/s/  
George  
A.  
Hallenbeck

George  
A.  
Hallenbeck

Chief  
Executive  
Officer,

President  
and  
Chairman  
of  
the  
Board

POWER OF ATTORNEY

We, the undersigned officers and directors of EVOLVING SYSTEMS, INC. hereby constitute and appoint George A. Hallenbeck and Anita T. Moseley, and each of them, as our true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for us and in our 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 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 we 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 substitutes or substitute, 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.

Signature	Title	Date
<p style="text-align: center;"><u>/s/ George A. Hallenbeck</u></p> <p>George A. Hallenbeck</p>	<p>President, Chief Executive Officer and Chairman of the Board (<i>Principal Executive Officer</i>)</p>	<p>March 5, 2003</p>
<p style="text-align: center;"><u>/s/ Brian R. Ervine</u></p> <p>Brian R. Ervine</p>	<p>Senior Vice President of Finance, Chief Financial Officer and Treasurer (<i>Principal Financial and Accounting Officer</i>)</p>	<p>March 5, 2003</p>
<p style="text-align: center;"><u>/s/ Donald R. Dixon</u></p> <p>Donald R. Dixon</p>	<p>Director</p>	<p>March 5, 2003</p>
<p style="text-align: center;"><u>/s/ Robert J. Loarie</u> <u>Robert J. Loarie</u></p>	<p>Director</p>	<p>March 5, 2003</p>
<p style="text-align: center;"><u>/s/ Michael R. Perusse</u></p> <p>Michael R. Perusse</p>	<p>Director</p>	<p>March 5, 2003</p>

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/s/ Brendan F. Reidy  
Brendan F. Reidy

Director

March 5, 2003

/s/ James M. Ross

Director

March 5, 2003

James M. Ross