

ADAPTEC INC
Form S-8
September 07, 2001

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As filed with the Securities and Exchange Commission on September 7, 2001

Registration No. 333-

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-8

REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

ADAPTEC, INC.

(Exact name of the Registrant as specified in its charter)

Delaware

(State or other jurisdiction
of incorporation or organization)

94-2748530

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

**691 S. Milpitas Boulevard
Milpitas, California 95035**

(Address of principal executive offices, including zip code)

Stock options granted under the Stargate Solutions, Inc. 1999 Incentive Stock Plan and assumed by Registrant

(Full titles of the plans)

**Robert N. Stephens
President and Chief Executive Officer
Adaptec, Inc.**

**691 S. Milpitas Boulevard
Milpitas, California 95035
(408) 945-8600**

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

Copy to:

**Daniel Winnike, Esq.
Scott J. Leichtner, Esq.
Fenwick & West LLP
Two Palo Alto Square
Palo Alto, California 94306
(650) 494-0600**

(Counsel to the Registrant)

CALCULATION OF REGISTRATION FEE

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Title of Securities To Be Registered	Amount To Be Registered	Proposed Maximum Offering Price Per Share	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
Common Stock, \$0.001 par value per share	2,348,083(1)	\$1.31(2)	\$3,075,989	\$769

- (1) Represents shares reserved for issuance upon the exercise of options granted under the Stargate Solutions, Inc. 1999 Incentive Stock Plan.
- (2) Represents the weighted average per share exercise price for such outstanding options, calculated pursuant to Rule 457(h)(1) of the Securities Act solely for the purpose of calculating the registration fee.

PART II INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

ITEM 3. INCORPORATION OF DOCUMENTS BY REFERENCE

The following documents filed with the Securities and Exchange Commission (the "Commission") are incorporated herein by reference:

- (a) The Registrant's Annual Report on Form 10-K for the fiscal year ended March 31, 2001 filed with the Commission on June 26, 2001.
- (b) The Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended June 30, 2001, filed with the Commission on August 13, 2001.
- (c) The Registrant's Current Report on Form 8-K filed with the Commission on July 23, 2001.
- (d) The Registrant's Current Report on Form 8-K filed with the Commission on September 7, 2001.
- (e) Items 1 and 2 of the Registrant's registration statement on Form 8-A filed July 20, 1992 pursuant to the Exchange Act and Exhibit No. 1 to Amendment No. 4 of the Registrant's registration statement on Form 8-A filed January 14, 1997 amending its Form 8-A filed May 11, 1989.

All documents subsequently filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act, prior to the filing of a post-effective amendment which indicates that all securities registered hereby have been sold or which deregisters all securities then remaining unsold, shall be deemed incorporated into this registration statement by reference and to be a part hereof from the date of the filing of such documents.

ITEM 4. DESCRIPTION OF SECURITIES.

Not applicable.

ITEM 5. INTERESTS OF NAMED EXPERTS AND COUNSEL.

Not applicable.

ITEM 6. INDEMNIFICATION OF DIRECTORS AND OFFICERS AND LIMITATION OF LIABILITY.

The Registrant's Certificate of Incorporation limits the liability of directors to the maximum extent permitted by Delaware law. Delaware law provides that directors of a corporation will not be personally liable for monetary damages for a breach of their fiduciary duties as directors, except for liability (i) for any breach of their duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law, (iii) for unlawful payments of dividends or unlawful stock repurchases or redemptions as provided in Section 174 of the Delaware General Corporation Law, or (iv) for any transaction from which the director derived an improper personal benefit.

The Registrant's Amended and Restated Bylaws provide that the Registrant shall indemnify its directors and officers and may indemnify its employees and other agents to the fullest extent permitted by law. The Registrant's Amended and Restated Bylaws also permit the Registrant to secure insurance on behalf of any officer, director, employee or other agent for any liability arising out of his or her actions in such capacity, regardless of whether the Registrant would have the power to indemnify him or her against such liability under the General Corporation Law of the State of Delaware. The Registrant currently has secured such insurance on behalf of its officers and directors.

The Registrant has entered into agreements to indemnify its directors and officers, in addition to indemnification provided for in the Registrant's Amended and Restated Bylaws. Subject to certain conditions, these agreements, among other things, indemnify the Registrant's directors and officers for

certain expenses (including attorneys' fees), judgments, fines and settlement amounts incurred by any such person in any action or proceeding, including any action by or in the right of the Registrant, arising out of such person's services as a director or officer of the Registrant, any subsidiary of the Registrant or any other company or enterprise to which the person provides services at the request of the Registrant.

ITEM 7. EXEMPTION FROM REGISTRATION CLAIMED.

Not applicable.

ITEM 8. EXHIBITS.

- 4.01 Certificate of Incorporation of the Registrant (incorporated by reference to Exhibit 3.1 to the Registrant's Annual Report on Form 10-K for the year ended March 31, 1998).
- 4.02 Amended and Restated Bylaws of the Registrant.
- 4.03 Stargate Solutions, Inc. 1999 Incentive Stock Plan and related forms of stock option agreements.
- 5.01 Opinion of Fenwick & West LLP.
- 23.01 Consent of Fenwick & West LLP (included in Exhibit 5.01).
- 23.02 Consent of PricewaterhouseCoopers LLP, Independent Accountants.
- 24.01 Power of Attorney (included on the signature page hereto).

ITEM 9. UNDERTAKINGS.

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 of 1933;
 - (ii) To reflect in the prospectus any facts or events arising after the effective date of the 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 the 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;

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attorneys-in-fact, or his substitute or substitutes, may 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
<u>/s/ ROBERT N. STEPHENS</u> Robert N. Stephens	President, Chief Executive Officer and Director (Principal Executive Officer)	September 7, 2001
<u>/s/ DAVID A. YOUNG</u> David A. Young	Vice President, Chief Financial Officer and Assistant Secretary (Principal Financial Officer)	September 7, 2001
<u>/s/ KENNETH B. AROLA</u> Kenneth B. Arola	Vice President and Corporate Controller (Principal Accounting Officer)	September 7, 2001
<u>/s/ CARL J. CONTI</u> Carl J. Conti	Director	September 7, 2001
<u>/s/ VICTORIA L. COTTEN</u> Victoria L. Cotten	Director	September 7, 2001
<u>/s/ JOHN C. EAST</u> John C. East	Director	September 7, 2001
<u>/s/ LUCIE J. FJELDSTAD</u> Lucie J. Fjeldstad	Director	September 7, 2001
<u>/s/ ILENE H. LANG</u> Ilene H. Lang	Director	
<u>/s/ ROBERT J. LOARIE</u> Robert J. Loarie	Director	September 7, 2001

EXHIBIT INDEX

Exhibit Number	Exhibit Title
4.02	Amended and Restated Bylaws of the Registrant.
4.03	Stargate Solutions, Inc. 1999 Incentive Stock Plan and related forms of stock option agreements.
5.01	Opinion of Fenwick & West LLP.

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PART II

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