

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

FORM S-8
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

NETAPP, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

77-0307520
(I.R.S. Employer
Identification No.)

**495 East Java Drive,
Sunnyvale, California**
(Address of principal executive offices)

94089
(Zip Code)

**NETAPP, INC. EMPLOYEE STOCK PURCHASE PLAN
NETAPP, INC. 1999 STOCK OPTION PLAN**
(Full title of the plans)

Thomas Georgens
President and Chief Executive Officer
NetApp, Inc.
495 East Java Drive,
Sunnyvale, California 94089
(Name and address of agent for service)

(408) 822-6000
(Telephone number, including area code, of agent for service)

Copies to:
Steven E. Bochner, Esq.
Wilson Sonsini Goodrich & Rosati, P. C.
650 Page Mill Road
Palo Alto, CA 94304
(650) 493-9300

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. (Check one):

Large accelerated filer

Accelerated filer

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 (par value \$0.001) reserved for issuance under the 1999 Stock Option Plan(2) | 7,350,000 | \$33.22(3) | \$244,167,000(3) | \$33,304.38 |
| Common Stock (par value \$0.001) reserved for issuance under the Employee Stock Purchase Plan | 5,000,000 | \$28.23(4) | \$141,150,000(4) | \$19,252.86 |

- (1) Pursuant to Rule 416(a) of the Securities Act of 1933, as amended (the "Securities Act"), this Registration Statement shall also cover any additional shares of the Registrant's Common Stock that become issuable under the applicable plan by reason of any stock dividend, stock split, recapitalization or other similar transaction effected without the receipt of consideration that increases the number of outstanding shares of the Registrant's Common Stock.
- (2) Includes shares of restricted Common Stock and shares of Common Stock issuable in respect of restricted stock units, stock options, stock appreciation rights, performance shares, performance units and other awards, in each case, pursuant to the 1999 Stock Option Plan.
- (3) Estimated solely for the purpose of calculating the amount of the registration fee pursuant to Rule 457(c) and Rule 457(h) of the Securities Act. The proposed maximum offering price per share and proposed maximum aggregate offering price are based upon the average of the high and low prices of Registrant's Common Stock on September 27, 2012 as reported on the Nasdaq Global Select Market.
- (4) The proposed maximum offering price per share of \$28.23 and the proposed maximum aggregate offering price of \$141,150,000 were determined by discounting the proposed offering price per share and proposed maximum aggregate offering price per share (as computed in Note 3 above) by 15% in accordance with the terms of the Registrant's Employee Stock Purchase Plan.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

Item 1. Plan Information

The documents containing the information specified in this Item 1 will be sent or given to employees, officers, directors or others as specified by Rule 428(b)(1) under the Securities Act. In accordance with the rules and regulations of the Securities and Exchange Commission (the "Commission") and the instructions to Form S-8, such documents are not being filed with the Commission either as part of this Registration Statement or as prospectuses or prospectus supplements pursuant to Rule 424 under the Securities Act.

Item 2. Registration Information and Employee Plan Annual Information.

The documents containing the information specified in this Item 2 will be sent or given to employees, officers, directors or others as specified by Rule 428(b)(1) under the Securities Act. In accordance with the rules and regulations of the Commission and the instructions to Form S-8, such documents are not being filed with the Commission either as part of this Registration Statement or as prospectuses or prospectus supplements pursuant to Rule 424 under the Securities Act. Such documents, together with the documents incorporated by reference herein pursuant to Item 3 of Part II of this Registration Statement on Form S-8, constitute a prospectus that meets the requirements of Section 10(a) of the Securities Act, and are available upon written or oral request: NetApp, Inc., Attn: General Counsel, 495 East Java Drive, Sunnyvale, CA 94089, Tel: 408.822.6000.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference

NetApp, Inc. (the "Registrant") hereby incorporates by reference into this Registration Statement the following documents previously filed with the Commission:

- (a) The Registrant's Annual Report on Form 10-K for the fiscal year ended April 27, 2012, filed with the Commission on June 19, 2012, pursuant to Section 13 of the Securities Exchange Act of 1934, as amended (the "1934 Act");
- (b) The Registrant's Current Report on Form 8-K, filed with the Commission on May 1, 2012;
- (c) The Registrant's Current Report on Form 8-K, filed with the Commission on June 1, 2012;
- (d) The Registrant's Current Report on Form 8-K, filed with the Commission on July 19, 2012;
- (e) The Registrant's Quarterly Report on Form 10-Q for the quarter ended July 27, 2012, filed with the Commission on August 30, 2012 pursuant to Section 13 of the 1934 Act;
- (f) The Registrant's Current Report on Form 8-K, filed with the Commission on September 6, 2012;
- (g) The Registrant's Registration Statement No. 000-27130 on Form 8-A filed with the Commission on November 1, 1995, which contains a description of the terms, rights and provisions applicable to the Registrant's Common Stock.

All reports and definitive proxy or information statements filed pursuant to Section 13(a), 13(c), 14 or 15(d) of the 1934 Act after the date of this Registration Statement and prior to the filing of a post-effective amendment which indicates that all securities offered hereby have been sold or which de-registers all securities then remaining unsold shall be deemed to be incorporated by reference into this Registration Statement and to be a part hereof from the date of filing of such documents; provided, however, that documents or information deemed to have been furnished and not filed in accordance with the rules of the Commission shall not be deemed incorporated by reference into this Registration Statement. Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any subsequently filed document which also is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

Item 4. Description of Securities

Not applicable.

Item 5. Interests of Named Experts and Counsel

Not applicable.

Item 6. Indemnification of Directors and Officers

Section 145 of the Delaware General Corporation Law authorizes a court to award or a corporation's board of directors to grant indemnification to directors and officers in terms sufficiently broad to permit the indemnification under some circumstances for liabilities (including reimbursement for expenses incurred) arising under the Securities Act. Article IX of the Certificate of Incorporation of the Registrant provides that, subject to Delaware law, its directors will not be personally liable for monetary damages for breach of their fiduciary duties to the Registrant and its stockholders. This provision does not eliminate any director's fiduciary duties, and in appropriate circumstances, equitable remedies such as injunctive or other forms of non-monetary relief will remain available under Delaware law. The provision also does not affect a director's responsibilities under any other law, such as the federal securities laws or state or federal environmental laws.

Article VII of the Registrant's Bylaws provides for indemnification of its directors to the fullest extent authorized by Delaware General Corporation Law. The Registrant's Bylaws also provide that:

- The Registrant is required to advance the expenses, as incurred, of any such individual in connection with defending a proceeding, action or suit by reason of such individual's serving on behalf of and at the Registrant's request, except that such officer or director shall undertake to repay such advances if it is ultimately determined that such person is not entitled to indemnification.
- The rights conferred in the bylaws are not exclusive, and the Registrant is authorized to enter into indemnification arrangements with any person other than a director who is made a party to any action, suit or proceedings by reason of the fact that he is or was an officer or employee of the Registrant.
- The Registrant may not retroactively amend the Bylaw provisions described above to reduce its indemnification obligations to its directors, officers, employees and agents.

In addition, the Registrant's policy is to enter into separate indemnification agreements with each of its directors and executive officers to provide for the maximum indemnification allowed to directors and executive officers by Section 145 of the Delaware General Corporation Law and which allow for certain additional procedural protections. The Registrant also maintains directors and officers insurance to insure such persons against certain liabilities.

Item 7. Exemption from Registration Claimed

Not applicable.

Item 8. Exhibits

| Exhibit Number | Documents |
|----------------|--|
| 5.1 | Opinion of Wilson Sonsini Goodrich & Rosati, P.C. |
| 23.1 | Consent of Independent Registered Public Accounting Firm. |
| 23.2 | Consent of Wilson Sonsini Goodrich & Rosati, P.C. is contained in Exhibit 5.1 to this Registration Statement. |
| 24 | Power of Attorney is contained on the signature page. |
| 99.1 | NetApp, Inc. Employee Stock Purchase Plan, previously filed with the Commission as an appendix to the Registrant's Proxy Statement, dated July 20, 2012. |
| 99.2 | NetApp, Inc. 1999 Stock Option Plan, previously filed with the Commission as an appendix to the Registrant's Proxy Statement, dated July 20, 2012. |

Item 9. Undertakings.

(a) 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;
- (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. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective 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.

Provided, however, that Paragraphs (a)(1)(i) and (a)(1)(ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the registrant pursuant to Section 13 or Section 15(d) of the 1934 Act (15 U.S.C. 78m or 78o(d)) that are incorporated by reference in this Registration Statement.

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new Registration Statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the 1934 Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the 1934 Act) that is incorporated by reference in this Registration Statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, 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 Sunnyvale, State of California, on October 3, 2012.

NETAPP, INC.

By: /s/ THOMAS GEORGENS

Thomas Georgens

Title: President and Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENT, that each person whose signature appears below constitutes and appoints Thomas Georgens and Nicholas R. Noviello, and each of them, as 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 on Form S-8, and to file the same, with all exhibits thereto, and other 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 requisite and necessary to be done in connection therewith, 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 or his substitutes, may lawfully do or cause to be done by virtue thereof.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed below by the following persons on behalf of the Company and in the capacities and on the dates indicated:

| <u>Signatures</u> | <u>Title</u> | <u>Date</u> |
|---|--|-----------------|
| <u>/s/ THOMAS GEORGENS</u> (Thomas Georgens) | President and Chief Executive Officer, Director (Principal Executive Officer) | October 3, 2012 |
| <u>/s/ DANIEL J. WARMENHOVEN</u> (Daniel J. Warmenhoven) | Executive Chairman and Chairman of the Board, Director | October 3, 2012 |
| <u>/s/ NICHOLAS R. NOVIELLO</u> (Nicholas R. Noviello) | Executive Vice President of Finance and Chief Financial Officer (Principal Financial Officer) | October 3, 2012 |

| Signatures | Title | Date |
|---|--------------|-----------------|
| <u>/S/ NICHOLAS G. MOORE</u> (Nicholas G. Moore) | Director | October 3, 2012 |
| <u>/S/ GEORGE T. SHAHEEN</u> (George T. Shaheen) | Director | October 3, 2012 |
| <u>/S/ ROBERT T. WALL</u> (Robert T. Wall) | Director | October 3, 2012 |
| <u>/S/ JEFFRY R. ALLEN</u> (Jeffry R. Allen) | Director | October 3, 2012 |
| <u>/S/ ALAN EARHART</u> (Alan Earhart) | Director | October 3, 2012 |
| <u>/S/ T. MICHAEL NEVENS</u> (T. Michael Nevens) | Director | October 3, 2012 |
| <u>/S/ GERALD HELD</u> (Gerald Held) | Director | October 3, 2012 |
| <u>/S/ RICHARD WALLACE</u> (Richard Wallace) | Director | October 3, 2012 |

EXHIBIT INDEX

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|---------------------------|--|
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| 23.2 | Consent of Wilson Sonsini Goodrich & Rosati, P.C. is contained in Exhibit 5.1 to this Registration Statement. |
| 24 | Power of Attorney is contained on the signature page. |
| 99.1 | NetApp, Inc. Employee Stock Purchase Plan, previously filed with the Commission as an appendix to the Registrant's Proxy Statement, dated July 20, 2012. |
| 99.2 | NetApp, Inc. 1999 Stock Option Plan, previously filed with the Commission as an appendix to the Registrant's Proxy Statement, dated July 20, 2012. |

October 3, 2012

NetApp, Inc.
495 East Java Drive
Sunnyvale, California 94089

Ladies and Gentlemen:

You have requested our opinion with respect to certain matters in connection with the filing by NetApp, Inc. (the “**Company**”) of a Registration Statement on Form S-8 (the “**Registration Statement**”) with the Securities and Exchange Commission covering the offering of up to 7,350,000 shares of the Company’s Common Stock, \$0.001 par value, pursuant to its 1999 Stock Option Plan (the “**1999 Plan**”), and up to 5,000,000 shares of the Company’s Common Stock, \$0.001 par value, pursuant to its Employee Stock Purchase Plan (the “**Purchase Plan**” and, together with the 1999 Plan, the “**Plans**”). The shares of Common Stock issuable pursuant to the Plans are referred to herein as the “**Shares**.”

In connection with this opinion, we have examined the Registration Statement, your Certificate of Incorporation, as amended, and Bylaws, as amended, and such other documents, records, certificates, memoranda and other instruments as we deem necessary as a basis for this opinion. We have assumed the genuineness and authenticity of all documents submitted to us as originals, the conformity to originals of all documents submitted to us as copies thereof, and the due execution and delivery of all documents where due execution and delivery are a prerequisite to the effectiveness thereof.

On the basis of the foregoing, and in reliance thereon, we are of the opinion that the Shares, when issued in accordance with the Registration Statement and the Plans, will be validly issued, fully paid, and nonassessable (except as to shares issued pursuant to certain deferred payment arrangements, which will be fully paid and nonassessable when such deferred payments are made in full).

We consent to the filing of this opinion as an exhibit to the Registration Statement.

Very truly yours,

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

/s/Wilson Sonsini Goodrich & Rosati

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in this Registration Statement on Form S-8 of our report dated June 19, 2012, relating to the consolidated financial statements and financial statement schedule of NetApp, Inc. and its subsidiaries (collectively, the "Company") which report expresses an unqualified opinion and includes explanatory paragraphs relating to the change in the Company's method for recognizing revenue for multiple element arrangements and the retrospective adoption of new accounting guidance related to the presentation of comprehensive income, and our report dated June 19, 2012, relating to the effectiveness of the Company's internal control over financial reporting, appearing in the Annual Report on Form 10-K of the Company for the year ended April 27, 2012.

/s/ DELOITTE & TOUCHE LLP

San Jose, California
October 3, 2012