

PERVASIP CORP  
Form S-8  
July 27, 2010

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As Filed with the Securities and Exchange Commission on July 27, 2010

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

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

FORM S-8

REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933

PERVASIP CORP.  
(Exact Name of Registrant as Specified in its Charter)

New York 13-2511270  
(State or Other Jurisdiction of Incorporation or Organization) (I.R.S. Employer Identification No.)

75 South Broadway, Suite 400 White Plains, New  
York 10601  
(Address of Principal Executive Offices) (Zip Code)

2010 EQUITY INCENTIVE PLAN

(Full Title of the Plan(s))

Paul H. Riss  
Chief Executive Officer  
Pervasip Corp.  
75 South Broadway, Suite 400  
White Plains, New York 10601  
(Name and Address of Agent for Service)

(914) 620-1500  
(Telephone Number, Including Area Code, of Agent for Service)

Copy To:

Eric M. Hellige, Esq.  
Pryor Cashman LLP

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7 Times Square  
New York, New York 10036  
(212) 421-4100

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

Non-accelerated filer

(Do not check if a smaller reporting company)

Accelerated filer

Smaller Reporting Company

CALCULATION OF REGISTRATION FEE

Title of Each Class 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, \$.10 par value	5,000,000	\$0.073	\$365,000	\$26.02

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\*Pursuant to Rule 416(a), this registration statement also covers any additional securities that may be offered or issued in connection with any stock split, stock dividend or similar transaction.

\*\*Estimated solely for the purpose of calculating the registration fee and computed in accordance with Rule 457(c) under the Securities Act of 1933, upon the basis of the average of the bid and asked price per share of the registrant's common stock as reported on the Over the Counter Bulletin Board on July 23, 2010.

PART I

INFORMATION REQUIRED IN THE SECTION 10(A) PROSPECTUS

The documents containing the information specified in Part I of this registration statement on Form S-8 (this "Registration Statement") will be sent or given to participants in the 2010 Equity Incentive Plan of Pervasip Corp., which are covered by this Registration Statement as specified by Rule 428(b)(1) promulgated under the Securities Act of 1933, as amended (the "Securities Act"). Such documents need not be filed with the Securities and Exchange Commission (the "SEC") either as part of this Registration Statement or as prospectuses or prospectus supplements pursuant to Rule 424 promulgated under the Securities Act. These documents and the documents incorporated by reference in this Registration Statement pursuant to Item 3 of Part II hereof, taken together, constitute a prospectus that meets the requirements of Section 10(a) of the Securities Act.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The SEC allows us to "incorporate by reference" into this Registration Statement the information we have filed with the SEC. The information we incorporate by reference herein is an important part of this Registration Statement. Any statement in a document we have filed with the SEC prior to the date of this Registration Statement and which is incorporated by reference herein will be considered to be modified or superseded to the extent a statement contained in this Registration Statement or any other subsequently filed document that is incorporated by reference herein modifies or supersedes that statement. The modified or superseded statement will not be considered to be a part of this Registration Statement, except as modified or superseded. Unless expressly incorporated into this Registration Statement, a report furnished but not filed on Form 8-K shall not be incorporated by reference into this Registration Statement.

The following documents are hereby incorporated by reference in this Registration Statement:

- (1) The description of our common stock contained in our Registration Statement on Form S-3, filed with the SEC on January 12, 2000, including any amendment or report filed for the purpose of updating such information;
- (2) Our Annual Report on Form 10-K for the fiscal year ended November 30, 2009, filed with the SEC on March 15, 2010;
- (3) Our Quarterly Reports on Form 10-Q for the fiscal quarters ended February 28, 2010, and May 31, 2010 filed with the SEC on April 15, 2010 and July 15, 2010 respectively;
- (4) All other reports filed by us pursuant to Section 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended, after the date of this Registration Statement but prior to the filing of a post-effective amendment to this Registration Statement which indicates that all securities offered hereby have been sold or with deregisters all securities then remaining unsold.



Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

Not applicable.

Item 6. Indemnification of Directors and Officers.

Reference is made to Sections 721 through 725 of the Business Corporation Law of the State of New York (the “BCL”), which provides for indemnification of directors and officers of New York corporations under certain circumstances.

Section 722 of the BCL provides that a corporation may indemnify directors and officers as well as other employees and individuals against judgments, fines, amounts paid in settlement and reasonable expenses, including attorneys’ fees, in connection with actions or proceedings, whether civil or criminal (other than an action by or in the right of the corporation, a “derivation action”), if they acted in good faith and in a manner they reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe their conduct was unlawful. A similar standard is applicable in the case of derivative actions, except that indemnification only extends to amounts paid in settlement and reasonable expenses (including attorneys’ fees) incurred in connection with the defense or settlement of such actions, and the statute does not apply in respect of a threatened action, or a pending action that is settled or otherwise disposed of, and requires court approval before there can be any indemnification where the person seeking indemnification has been found liable to the corporation. Section 721 of the BCL provides that Article 7 of the BCL is not exclusive of other indemnification that may be granted by a corporation’s certificate of incorporation, disinterested director vote, shareholders vote, agreement or otherwise.

Article XII of our by-laws provides that we may indemnify our officers and directors to the fullest extent permitted under the BCL

Section 402(b) of the BCL provides that a corporation’s certificate of incorporation may include a provision that eliminates or limits the personal liability of the corporation’s directors to the corporation or its shareholders for damages for any breach of a director’s duty, provided that such provision does not eliminate or limit (1) the liability of any director if a judgment or other final adjudication adverse to the director establishes that the director’s acts or omissions were in bad faith or involved intentional misconduct or a knowing violation of law or that the director personally gained a financial profit or other advantage to which the director was not legally entitled or that the director’s acts violated Section 719 of the BCL; or (2) the liability of any director for any act or omission prior to the adoption of a provision authorized by Section 402(b) of the BCL. Article Sixth of our Certificate of Incorporation, as amended, provides that no director of our company shall be liable to our company or our shareholders for any breach of duty in such capacity except as provided in Section 402(b) of the BCL.

Any amendment to or repeal of our Certificate of Incorporation or by-laws shall not adversely affect any right or protection of a director or officer of our company for or with respect to any acts or omissions of such director or officer occurring prior to such amendment or repeal.

We maintain directors’ and officers’ insurance which, subject to certain exclusions, insures our directors and officers against certain losses which arise out of any neglect or breach of duty (including, but not limited to, any error, misstatement, act, or omission) by the directors or officers in the discharge of their duties, and insures us against amounts which we have paid or may become obligated to pay as indemnification to our directors and/or officers to cover such losses.

Insofar as indemnification for liabilities arising under the Securities Act of 1933, as amended (the "Securities Act"), may be permitted to directors, officers or persons controlling our company pursuant to the foregoing, we have been informed that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

Exhibit

No. Description

4.1 Form of common stock certificate (incorporated by reference to Exhibit 4.1 to our Registration Statement on Form S-8 filed with the SEC on March 24, 2008).

4.2 2010 Equity Incentive Plan.

5.1 Opinion of Pryor Cashman LLP (regarding validity of common stock being registered).

23.1 Consent of Pryor Cashman LLP (included as part of Exhibit 5.1).

23.2 Consent of Nussbaum Yates Berg Klein & Wolpow, LLP

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 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;
- (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; and
- (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.

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 annual report pursuant to Section 15(d) of the Exchange Act that is incorporated by reference in the 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.

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 Securities and Exchange 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, we certify that we have reasonable grounds to believe that we meet all the requirements for filing on Form S-8 and have duly caused this registration statement to be signed on our behalf by the undersigned, thereunto duly authorized, in White Plains, State of New York on this 27th day of July, 2010.

PERVASIP CORP.

By: /s/ Paul H. Riss  
 Paul H. Riss  
 Chairman of the Board

KNOW ALL BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints Paul H. Riss, his attorney-in-fact and agent, with full power of substitution and resubstitution for him in any and all capacities, to sign any or all amendments or post-effective amendments to this registration statement, and to file the same, with exhibits thereto and other documents in connection herewith or in connection with the registration of the offered securities under the Securities Exchange Act of 1934, as amended, with the Securities and Exchange Commission, granting unto such attorney-in-fact and agent full power to do and perform each and every act and thing requisite and necessary in connection with such matters and hereby ratifying and confirming all that each of such attorneys-in-fact and agents or his or her substitutes may do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
/s/Paul H. Riss	Chairman of the Board and Chief Executive Officer (principal executive officer and principal financial officer)	July 27, 2010
/s/ Greg M Cooper	Director	July 27, 2010
/s/ Cherian Mathai	Director	July 27, 2010
/s/ Mark Richards	Director	July 27, 2010
/s/ Scott Widham	Director	July 27, 2010

EXHIBIT INDEX

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