

COMMTOUCH SOFTWARE LTD

Form S-8

September 24, 2009

As filed with the Securities and Exchange Commission on September 24, 2009

Registration No. 333-_____

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

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

COMMTOUCH SOFTWARE LTD.
(Exact name of registrant as specified in its charter)

Israel
(State or other jurisdiction of
incorporation or organization)

Not applicable
(I.R.S. Employer
Identification No.)

4A Hazaron Street
Poleg Industrial Park, P.O. Box 8511
Netanya, 42504, Israel
(Address of principal executive offices)

N/A
(Zip Code)

Amended and Restated Commtouch Software Ltd. 1999 Nonemployee Directors Stock
Option Plan,
Amended and Restated Israeli Share Option Plan and
2006 U.S. Stock Option Plan
(Full title of the plans)

Ron Ela
Commtouch Inc.
292 Gibraltar Drive, Suite 107
Sunnyvale, California 94089
(Name and Agent for Service)

(650) 864-2000
(Telephone Number, Including Area Code, of Agent for Service)

Gary Davis
VP, General Counsel & Secretary
Commtouch Inc.
292 Gibraltar Drive, Suite 107

Copies to:
Aaron M. Lampert
Naschitz, Brandes & Co.
5 Tuval Street
Tel Aviv 67897 Israel

Howard E. Berkenblit
Z.A.G/S&W LLP
One Post Office Square
Boston, MA 02109

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Sunnyvale, California 94089
 Tel: (650) 864-2000
 Fax: (650) 864-2006

Tel: 972-3-623-5000
 Fax: 972-3-623-5005

Tel: (617) 338-2800
 Fax: (617) 338-2880

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

Large accelerated filer Accelerated filer Non-accelerated filer (do not check if 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 (2) | Proposed Maximum Aggregate Offering Price (2) | Amount of Registration Fee |
|--|-----------------------------|---|---|----------------------------|
| Ordinary Shares Issuable Under the Amended and Restated Commtouch Software Ltd. 1999 Nonemployee Directors Stock Option Plan, Amended and Restated Israeli Share Option Plan and 2006 U.S. Stock Option Plan, NIS 0.15 Nominal Value | 1,200,000 | \$2.65 | \$3,180,000 | \$177.44 |

- (1) Pursuant to Rule 416(a) and (b) under the Securities Act of 1933, as amended, this Registration Statement shall also cover any additional ordinary shares which become issuable by reason of any stock dividend, stock split, recapitalization or other similar transaction which results in an increase in the number of the outstanding ordinary shares. Pursuant to General Instruction E of Form S-8, the contents of Registration Statement No. 333-94995 (filed January 20, 2000), Registration No. 333-65532 (filed July 20, 2001), Registration No. 333-141177 (filed March 9, 2007) and Registration No. 333-151929 (filed June 25, 2008) are incorporated by reference. The shares registered hereby may be issued under any of the three plans indicated, in any combination, not to exceed 1,200,000 shares in the aggregate under all three plans.
- (2) The proposed maximum offering price per share and the proposed maximum aggregate offering price have been estimated solely for the purpose of calculating the amount of the registration fee on the basis of the average of the high and low prices as reported for an ordinary share on the Nasdaq Capital Market on September 21, 2009 pursuant to Rule 457(h)(1) and 457(c).

The Registration Statement shall become effective upon filing in accordance with Rule 462 under the Securities Act.

Pursuant to Rule 429 of the General Rules and Regulations under the Securities Act, the prospectuses that are a part of this Registration Statement will be used in connection with the offer and sale of Ordinary Shares of the Registrant previously registered under the Registrant's Registration Statements on Form S-8 (Registration Nos. 333-94995, 333-65532, 333-141177 and 333-151929).

EXPLANATORY NOTE

We are filing this Registration Statement on Form S-8 to register an additional 1,200,000 Ordinary Shares for issuance under the Commtouch Software Ltd. Amended and Restated Israeli Share Option Plan, the Commtouch Software Ltd. 2006 U.S. Stock Option Plan and the Amended and Restated Commtouch Software Ltd. 1999 Nonemployee Directors Stock Option Plan.

In accordance with General Instruction E of Form S-8, the contents of the Registrant's Registration Statements on Form S-8 (Registration No. 333-94995 (filed January 20, 2000), Registration No. 333-65532 (filed July 20, 2001), Registration No. 333-141177 (filed March 9, 2007) and Registration No. 333-151929 (filed June 25, 2008) are incorporated herein by reference and the information required by Part II is omitted, except as supplemented by the information set forth below.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents filed by the Registrant with the Securities and Exchange Commission (the "Commission") are hereby incorporated by reference in this Registration Statement:

- (a) Our Annual Report on Form 20-F for the fiscal year ended December 31, 2008;
- (b) Our report on Form 6-K furnished on May 18, 2009, containing the Registrant's press release of May 5, 2009 covering financial results of the Registrant for the first quarter of 2009 (excluding all financial information not prepared in accordance with US generally accepted accounting principles (GAAP), identified as Non-GAAP financial information or measures);
- (c) Our report on Form 6-K furnished on August 5, 2009, containing the Registrant's press release of July 29, 2009 covering financial results of the Registrant for the second quarter of 2009 (excluding all financial information not prepared in accordance with US generally accepted accounting principles (GAAP), identified as Non-GAAP financial information or measures); and
- (d) The description of our ordinary shares contained in the registration statement on Form 8-A under the Securities Exchange Act of 1934, as amended (the "Exchange Act") as filed with the Commission on June 25, 1999, and any subsequent amendment or report filed for the purpose of updating this description.

In addition, all subsequent annual reports filed on Form 20-F prior to the termination of this offering are incorporated by reference into this prospectus. Also, we may incorporate by reference our future reports on Form 6-K by stating in those Forms that they are being incorporated by reference into this registration statement.

All documents subsequently filed by the Registrant pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date of this registration statement and prior to the filing of a post-effective amendment which indicates that all securities offered have been sold or which deregisters all securities then remaining unsold, are deemed to be incorporated by reference into this registration statement and to be part hereof from the respective dates of filing of such documents. Any statement contained in this registration statement or in a document incorporated by reference shall be deemed modified or superseded to the extent that a statement contained in any

subsequently filed document which also is or is deemed to be incorporated by reference herein or therein modifies or supersedes such statement. Any statement so modified or superseded shall not be deemed to constitute a part hereof, except as so modified or superseded.

Item 8. Exhibits.

| Exhibit No. | Description |
|-------------|--|
| 4.1 | Amended and Restated Articles of Association of the Registrant, incorporated by reference to the Company's Annual Report on Form 20-F for the year ended December 31, 2007. |
| 5.1 | Opinion of Naschitz, Brandes & Co. |
| 23.1 | Consent of Kost Forer Gabbay & Kasierer, a member of Ernst & Young Global. |
| 23.2 | Consent of Naschitz, Brandes & Co. (included in Exhibit 5.1). |
| 24.1 | Power of Attorney (included in the signature page to this registration statement). |
| 99.1 | Amended and Restated Commtouch Software Ltd. 1999 Nonemployee Directors Stock Option Plan, incorporated by reference to Exhibit 99.1 to Registration Statement on Form S-8 No. 333-141177. |
| 99.2 | Commtouch Software Ltd. Amended and Restated 1996 CSI Stock Option Plan, incorporated by reference to Exhibit 99.2 to Registration Statement on Form S-8 No. 333-141177. |
| 99.3 | Commtouch Software Ltd. Amended and Restated Israeli Share Option Plan, incorporated by reference to Exhibit 99.3 to Registration Statement on Form S-8 No. 333-141177. |
| 99.4 | Commtouch Software Ltd. 2006 U.S. Stock Option Plan, incorporated by reference to Exhibit 99.4 to Registration Statement on Form S-8 No. 333-141177. |

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 Netanya, State of Israel, on the 24th day of September, 2009.

COMMTOUCH SOFTWARE LTD.

By: /s/ Ron Ela
Ron Ela
Chief Financial Officer

Pursuant to the requirements of the Securities Act of 1933, this registration statement on Form S-8 has been signed below by the following persons in the capacities and on the dates indicated. The undersigned officers and directors of the registrant hereby severally constitute and appoint Gideon Mantel and Ron Ela, and each of them, our true and lawful attorney-in-fact to sign for us and in our names in the capacities indicated below any and all amendments or supplements, whether pre-effective or post-effective, to this registration statement on Form S-8 and to file the same, with exhibits thereto and other documents in connection therewith, with the Commission, granting unto each of said attorneys, acting singly, full power and authority to do and perform each and every act and thing requisite or necessary to be done in and about the premises, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming our signatures to said amendments to this registration statement signed by our said attorneys and all else that said attorneys may lawfully do and cause to be done by virtue hereof.

| Name | Title | Date |
|------------------------------------|---|--------------------|
| /s/ Gideon Mantel Gideon Mantel | Chief Executive Officer (Principal Executive Officer) and Chairman of the Board Directors | September 24, 2009 |
| /s/Ron Ela Ron Ela | Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer) | September 24, 2009 |
| /s/Yair Bar-Touv Yair Bar-Touv | Director | September 24, 2009 |
| /s/Hila Karah Hila Karah | Director | September 24, 2009 |
| /s/Amir Lev Amir Lev | Director | September 24, 2009 |
| /s/Aviv Raiz Aviv Raiz | Director | September 24, 2009 |
| /s/Yair Shamir Yair Shamir | Director | September 24, 2009 |
| /s/Lloyd E. Shefsky | Director | September 24, 2009 |

Lloyd E. Shefsky

By: /s/Commtouch Inc.

Authorized Representative in the United
States.

September 24, 2009

Commtouch Inc.

Name: Ron Ela

Title: Chief Financial Officer

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INDEX TO EXHIBITS

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