

CYBEROPTICS CORP
 Form S-8
 May 28, 2004

Registration No. 333-_____

SECURITIES AND EXCHANGE COMMISSION
 Washington, D.C. 20549

FORM S-8
 REGISTRATION STATEMENT
 Under
 The Securities Act of 1933

CYBEROPTICS CORPORATION
 (Exact name of issuer as specified in its charter)

Minnesota
 (State or other jurisdiction of
 incorporation or organization)

41-1472057
 (I.R.S. Employer Identification No.)

5900 Golden Hills Drive
 Golden Valley, Minnesota 55416
 (Address of Principal Executive Offices) (Zip Code)

CYBEROPTICS CORPORATION EMPLOYEE STOCK PURCHASE PLAN, AS AMENDED
 NONQUALIFIED STOCK OPTION AGREEMENT DATED 2/15/2002 WITH KATHLEEN P. IVERSON
 NONQUALIFIED STOCK OPTION AGREEMENT DATED 8/10/2001 WITH STEVEN K. CASE
 NONQUALIFIED STOCK OPTION AGREEMENT DATED 8/10/2001 WITH STEVEN M. QUIST
 NONQUALIFIED STOCK OPTION AGREEMENT DATED 7/10/2001 WITH THOMAS BUSHMAN
 NONQUALIFIED STOCK OPTION AGREEMENT DATED 8/10/2001 WITH SWAMINATHAN MANICKAM
 (Full title of the plan)

Kathleen P. Iverson
 President
 CyberOptics Corporation
 5900 Golden Hills Drive
 Golden Valley, Minnesota 55416
 (Name and address of agent for service)

Copy to:
 Thomas Martin
 Dorsey & Whitney LLP
 Suite 1500
 50 South Sixth Street
 Minneapolis, MN 55402

(612) 542-5000
 (Telephone number, including area code, of agent for service)

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
Common Stock, no par value	192,000	\$ 15.878	\$ 3,048,500	\$ 386.43

(1) The number of shares being registered represents 100,000 shares of Common Stock which may be issued pursuant to the CyberOptics Corporation Employee Stock Purchase Plan, as amended, 50,000 shares that may be

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issued under a nonqualified stock option agreement dated February 15, 2002 to Kathleen P. Iverson, 12,000 shares that may be issued under a nonqualified stock option agreement dated August 10, 2001 to Steven K. Case, 12,000 shares that may be issued under a nonqualified stock option agreement dated August 10, 2001 to Steven M. Quist, 10,000 shares that may be issued under a nonqualified stock option agreement dated July 10, 2001 to Thomas Bushman, and 8,000 shares that may be issued under a nonqualified stock option agreement dated July 10, 2001 to Swaminathan Manickam. Pursuant to Rule 416(a) of the Securities Act of 1933, this registration statement also covers any additional securities that may be offered or issued to prevent dilution resulting from stock splits, stock dividends or similar transactions in accordance with the terms of the plan.

(2) Estimated solely for the purpose of determining the registration fee pursuant to Rule 457(c) and Rule 457(h) under the Securities Act of 1933, as amended. The proposed maximum offering price is based upon the average of the high and low selling prices of such Common Stock as quoted on the Nasdaq National Market on May 26, 2004 for 100,000 shares of such Common Stock issuable pursuant to the CyberOptics Employee Stock Purchase Plan, as amended and the exercise prices of \$11.87, \$11.00, \$11.00, \$10.50 and \$10.50 of the stock options held by Ms. Iverson, Mr. Quist, Dr. Case, Mr. Bushman and Mr. Mancikam, respectively.

Additional Shares; Incorporation by Reference. This Registration Statement is executed in part for the purpose of registering 100,000 additional shares of Common Stock of CyberOptics Corporation (the Company) to be offered pursuant to the terms of the Company's Employee Stock Purchase Plan, as amended. The Company's previous Registration Statements on Form S-8, dated August 16, 1999 (File No. 333-85321) and August 5, 1992 (File No. 33-50510), as effective, relate to the Company's Employee Stock Purchase Plan, as amended, and pursuant to General Instruction E, are hereby incorporated by reference.

Part II Information Required in the Registration Statement

Item 3. Incorporation of Documents by Reference.

The following documents that we have filed with the Securities and Exchange Commission are incorporated by reference into this registration statement:

- (a) our annual report on Form 10-K for the fiscal year ended December 31, 2003;
- (b) our quarterly report on Form 10-Q for the quarter ended March 31, 2004;
- (c) our current reports on Form 8-K filed on January 22, 2004, February 18, 2004 and April 27, 2004; and
- (d) the description of our common stock contained in any registration statement or report that we have filed under the Securities Exchange Act of 1934, as amended, including any amendment or report filed for the purpose of updating such description.

All documents that we have filed pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934, as amended, subsequent to the date of this registration statement and prior to the filing of a post-effective amendment indicating that all securities offered by this registration statement have been sold, or deregistering all securities remaining unsold, shall be deemed to be incorporated by reference in this registration statement and to be a part hereof from the respective dates of 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.

Section 302A.521, subd. 2, of the Minnesota Business Corporation Act (the "MBCA") requires us to indemnify a person made or threatened to be made a party to a proceeding by reason of the former or present official capacity of the person with us against judgments, penalties, fines, including, without limitation, excise taxes assessed against the person with respect to an employee benefit plan, settlements and reasonable expenses, including attorneys' fees and disbursements, incurred by the person in connection with the proceeding (collectively "Losses") if, with respect to the same acts or omissions, such person: (1) has not been indemnified by another organization or employee benefit plan for the same Losses; (2) acted in good faith; (3) received no improper personal benefit, and statutory procedures have been followed in the case of any conflict of interest by a director; (4) in the case of a criminal proceeding, had no reasonable cause to believe the conduct was unlawful; and (5) in the case of acts or omissions occurring in the person's official capacity as director, officer, member of a committee of the board or employee, reasonably believed that the conduct was in the best interests of the corporation, or in the case of acts or omissions occurring in a director's, officer's or employee's capacity as a director, officer, partner, trustee, employee or agent of another organization or employee benefit plan, reasonably believed that the conduct was not opposed to the best interests of the corporation.

2

Article 9 of our Articles of Incorporation, as amended, provides that none of our directors shall be personally liable to us or our shareholders for monetary damages for breach of fiduciary duty as a director. Article 9 does not, however, limit or eliminate the liability of a director to the extent provided by applicable law for (i) any breach of the director's duty of loyalty to us or our shareholders, (ii) acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) authorizing a dividend, stock repurchase or redemption or other distribution in violation of Minnesota law or for violation of certain provisions of Minnesota securities laws or (iv) any transaction from which the director derived an improper personal benefit.

Our Restated Bylaws require us to indemnify such persons, for such liabilities and expenses, in such manner, under such circumstances, and to such extent as is permitted by Section 302A.521 of the MBCA, as now enacted or hereafter amended.

We also maintains an insurance policy or policies to assist in funding our indemnification obligations with respects to directors and officers for certain liabilities.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

<u>Exhibit Number</u>	<u>Description</u>
4.1	CyberOptics Corporation Employee Stock Purchase Plan, as amended.
4.2	NonQualified Stock Option Agreement dated February 14, 2002 between the Company and Kathleen P. Iverson
4.3	NonQualified Stock Option Agreement dated August 10, 2001 between the Company and Steven M. Quist
4.4	NonQualified Stock Option Agreement dated August 10, 2001 between the Company and Steven K. Case

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<u>Exhibit Number</u>	<u>Description</u>
4.5	Nonqualified Stock Option Agreement dated July 10, 2001 between the Company and Thomas Bushman
4.6	NonQualified Stock Option Agreement dated July 10, 2001 between the Company and Swaminathan Manickam
5.1	Opinion of Dorsey & Whitney LLP
23.1	Consent of PricewaterhouseCoopers LLP
23.2	Consent of Dorsey & Whitney LLP (included in Exhibit 5.1 above)
24.1	Power of Attorney (included in the signature page to this Registration Statement).

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 of 1933, as amended (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 20% change in the

3

maximum aggregate offering price set forth in the Calculation of Registration Fee table in the effective registration statement; and

(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) above do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Commission by the registrant pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference 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.

(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 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.

(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

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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.

4

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, 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 Golden Valley, State of Minnesota, on this 25th day of May, 2004.

CYBEROPTICS CORPORATION

By: /s/ Kathleen P. Iverson
Kathleen P. Iverson, President

POWER OF ATTORNEY

The officers and directors of CyberOptics Corporation, whose signatures appear below, hereby constitute and appoint Kathleen P. Iverson and Scott G. Larson, and each of them (with full power to each of them to act alone), the true and lawful attorney-in-fact to sign and execute on behalf of the undersigned, any amendment or amendments to this Registration Statement of CyberOptics Corporation, and each of the undersigned does hereby ratify and confirm all that said attorneys shall 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 by the following persons in the capacities and on the date indicated.

<u>Name</u>	<u>Title</u>	
<u>/s/ Kathleen P. Iverson</u> Kathleen P. Iverson	President, CEO and Director (PRINCIPAL EXECUTIVE OFFICER)	May 25, 2004
<u>/s/ Steven K. Case</u> Steven K. Case	Chairman and Director	May 21, 2004
<u>/s/ Alex B. Cimoichowski</u> Alex B. Cimoichowski	Director	May 21, 2004
<u>/s/ Michael M. Selzer, Jr.</u>	Director	May 21, 2004

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<u>Name</u>	<u>Title</u>	
Michael M. Selzer, Jr		
<u>/s/ Irene M. Qualters</u> Irene M. Qualters	Director	May 21, 2004
<u>/s/ Erwin A. Kelen</u> Erwin A. Kelen	Director	May 20, 2004
<u>/s/ Scott G. Larson</u> Scott G. Larson	Vice President and Chief Financial Officer (PRINCIPAL ACCOUNTING OFFICER)	May 26, 2004

5

EXHIBIT INDEX

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