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KVH INDUSTRIES INC \DE\
Form S-8
August 15, 2001

Registration No. 333-

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM S-8

REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

KVH Industries, Inc.
(Exact Name of Registrant as Specified in Its Charter)

Delaware 05-0420589
(State or Other Jurisdiction of (I.R.S. Employer
Incorporation or Organization) Identification No.)
110 Enterprise Center
Middletown, Rhode Island 02842
(Address of Principal Executive Offices) (Zip Code)

KVH Industries, Inc. Amended and Restated 1996 Incentive and Nonqualified Stock
Option Plan

KVH Industries, Inc. Amended and Restated 1996 Employee Stock Purchase Plan
(Full Titles of the Plans)

Mr. Martin A. Kits van Heyningen
President and Chief Executive Officer
KVH Industries, Inc.
110 Enterprise Center
Middletown, RI 02842
(Name and Address of Agent for Service)

(401) 847-3327
(Telephone Number, Including Area Code, of Agent For Service)

With copies to:
Adam Sonnenschein, Esq.
Foley, Hoag & Eliot llp
One Post Office Square
Boston, Massachusetts 02109
(617) 832-1000

CALCULATION OF REGISTRATION FEE

Proposed

Proposed

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| Title of Securities to be Registered | Amount to be Registered | Maximum Offering Price Per Share (1) | Maximum Aggregate Offering Price (1) |
|---|----------------------------|---|---|
| Common stock, \$.01 par value | 785,457 shares | \$5.375 (2) | \$4,221,831.38 |
| Common stock, \$.01 par value | 214,543 shares | \$4.13 (3) | \$886,062.59 |
| Common stock, \$.01 par value | 151,137 shares | \$4.569 (4) | \$690,544.95 |
| Common stock, \$.01 par value | 98,863 shares | \$5.375 (5) | \$531,388.63 |
| Totals 1,250,000 shares | | | \$6,329,827.55 |

- (1) Estimated solely for the purposes of determining the registration fee.
- (2) For shares issuable pursuant to options that may be granted under the KVH Industries, Inc. Amended and Restated 1996 Incentive and Nonqualified Stock Option Plan, estimated pursuant to Rule 457(c) based on the average of the high and low prices of the Common Stock as reported on the National Association of Securities Dealers Automated Quotation National Market System (the "Nasdaq NMS") on August 10, 2001.
- (3) For shares issuable under stock options granted under the KVH Industries, Inc. Amended and Restated 1996 Incentive and Nonqualified Stock Option Plan and outstanding at August 10, 2001, estimated pursuant to Rule 457(h) based on the exercise prices of such options.
- (4) For shares issuable pursuant to the Amended and Restated 1996 Employee Stock Purchase Plan, pursuant to Rule 457(c) and (h) based on 85% of the average of the high and low prices of the Common Stock as reported on the Nasdaq NMS on August 10, 2001.
- (5) For shares issued pursuant to the Amended and Restated 1996 Employee Stock Purchase Plan, pursuant to Rule 457(c) based on the average of the high and low prices as reported on the Nasdaq NMS on August 10, 2001.

This Registration Statement covers 1,000,000 shares of our common stock issuable pursuant to our Amended and Restated 1996 Incentive and Nonqualified Stock Option Plan and 250,000 shares of our common stock issued or issuable pursuant to our Amended and Restated 1996 Employee Stock Purchase Plan. These shares are in addition to the 1,805,000 shares of common stock registered pursuant to the Registration Statement on Form S-8, File No. 333-08491, which we filed with the Securities and Exchange Commission on July 19, 1996.

The contents of our Registration Statement on Form S-8, File No. 333-08491, are incorporated herein by reference.

Reoffer Prospectus

The material which follows, up to but not including the page beginning Part II of this registration statement, constitutes a Reoffer Prospectus

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prepared in accordance with the applicable requirements of Part I of Form S-3 under General Instruction C to Form S-8. The Reoffer Prospectus is to be used in connection with resales of restricted securities issued and outstanding under our Amended and Restated 1996 Employee Stock Purchase Plan.

KVH Industries, Inc.

98,863 Shares of Common Stock

This Reoffer Prospectus relates to the resale, by the holders of 98,863 shares of common stock, par value \$.01 par value per share, of KVH Industries, Inc., issued pursuant to the purchase of stock under our Amended and Restated 1996 Employee Stock Purchase Plan. We will refer to such holders as selling stockholders.

All of the shares of our common stock covered by this Reoffer Prospectus are being offered by certain of our stockholders on a delayed or continuous basis.

We will not receive any proceeds from the offering. We will bear the costs relating to the registration of the shares being offered by this Reoffer Prospectus, other than selling commissions.

The selling stockholders, or any pledgees, donees, transferees, or other successors in interest of the selling stockholders, may offer the shares from time to time during the effectiveness of this registration statement for sale through the Nasdaq National Market, in the over-the-counter market, in one or more negotiated transactions, or through a combination of methods of sale, at prices and on terms then prevailing or at negotiated prices. The selling stockholders may sell the shares through broker-dealers, who may receive compensation in the form of discounts, concessions or commissions.

Our common stock is traded on the Nasdaq National Market under the symbol "KVHI." On August 10, 2001, the last reported sale price for our common stock on the Nasdaq National Market was \$5.50 per share.

Our executive offices are located at 50 Enterprise Center, Middletown, Rhode Island, 02842, and our telephone number is (401) 847-3327.

The common stock offered hereby involves a
high degree of risk.
See discussion of risks on
page 8.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

The date of this prospectus is August 15, 2001

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TracVision(R), Tracphone(R), Azimuth(R), Sailcomp(R) and DataScope(R) are registered trademarks of KVH. GyroTrac, TACNAV, and E-Core are KVH trademarks. This prospectus also includes trademarks of companies other than KVH.

Where You Can Find More Information

We file annual, quarterly, and current reports, proxy statements, and other information with the Securities and Exchange Commission. You may read any document that we have filed or will file with the Securities and Exchange Commission without charge at the public reference facilities maintained by the Securities and Exchange Commission at the following locations:

Main Office
Room 1024
Judiciary Plaza
450 Fifth Street, N.W.,
Washington, D.C. 20549

Regional Offices
Suite 1400
500 West Madison Street
Chicago, Illinois 60661
7 World Trade Center
Thirteenth Floor
New York, New York 10048

For a fee prescribed by the Securities and Exchange Commission, you may obtain copies of all or any portion of the documents that we file with the Securities and Exchange Commission from the main office of the Public Reference Section of the Commission at the above address, or by calling the Commission at 1-800-SEC-0330. Our filings are also available to the public on the Commission's Website at <http://www.sec.gov>.

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Our common stock is traded on the Nasdaq National Market. Reports and other information concerning our company may be inspected at the National Association of Securities Dealers, Inc., 1725 K Street, N.W., Washington, D.C. 20006.

This Reoffer Prospectus constitutes part of a Registration Statement on Form S-8 filed by us with the Commission under the Securities Act of 1933, as amended. This Reoffer Prospectus does not contain all of the information contained in the registration statement, and reference is hereby made to the registration statement and related exhibits for information with respect to our company and the securities offered hereby. Any statements contained herein concerning the provisions of any document are not necessarily complete, and, in such instance, reference is made to the copy of such document filed as an exhibit to the registration statement or otherwise filed with the Commission. Each such statement is qualified in its entirety by such reference.

Information Incorporated by Reference

The Securities and Exchange Commission allows us to incorporate by reference the information we file with it, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is considered to be a part of this Reoffer Prospectus, and information that we later file with the Commission will automatically update and supersede this information. We incorporate by reference the following documents:

- (a) Our annual report on Form 10-K for the fiscal year ended December 31, 2000;
- (b) Our quarterly report on Form 10-Q for the quarter ended March 30, 2001;
- (c) Our quarterly report on Form 10-Q for the quarter ended June 30, 2001;
- (d) Our current reports on Form 8-K dated January 5, 2001, April 19, 2001 and June 11, 2001;
- (e) The description of our common stock contained in the registration statement on Form 8-A filed with the Commission on March 26, 1996, under Section 12 of the Securities Exchange Act, including any amendment or report filed for the purpose of updating such description; and
- (f) Any document that we file with the Securities and Exchange Commission under Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act after the date of this prospectus and before the termination of this offering. Information in these filings will be deemed to be incorporated by reference as of the date we make the filing.

You may request a copy of these filings from us at no cost by writing or calling us at the following address and telephone number:

KVH Industries, Inc.
50 Enterprise Center
Middletown, RI 02842
Attention: Chief Financial Officer
(401) 847-3327

You should rely only on the information contained or incorporated by reference in this Reoffer Prospectus. We have not authorized anyone else to provide you with additional or different information. These securities are only being offered in states where the offer is permitted. You should not assume that the information in this Reoffer Prospectus is accurate as of any date other than the dates on the front of this Reoffer Prospectus.

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SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

Some of the information in this Reoffer Prospectus and in the documents that we incorporate by reference into this Reoffer Prospectus contains forward-looking statements that involve substantial risks and uncertainties. You can identify these statements by forward-looking words such as "expect," "anticipate," "plan," "believe," "seek," "estimate," "internal," "backlog" and similar words. Statements that we make in this Reoffer Prospectus and in the documents that we incorporate by reference into this Reoffer Prospectus that are not statements of historical fact may also be forward-looking statements. In particular, statements that we make in "Management's Discussion and Analysis of Financial Condition and Results of Operations" relating to our shipment level and profitability, increased market share and the sufficiency of capital to meet working capital and capital expenditures requirements, are forward-looking statements. Forward-looking statements are not guarantees of our future performance, and involve risks, uncertainties and assumptions that may cause our actual results to differ materially from the expectations we describe in our forward-looking statements. There may be events in the future that we are not accurately able to predict, or over which we have no control. You should not place undue reliance on forward-looking statements. We do not promise to notify you if we learn that our assumptions or projections are wrong for any reason.

Before you invest in our common stock, you should be aware that the risks we discuss in our annual report and our quarterly reports and other documents we incorporate by reference and the risks we discuss elsewhere in this Reoffer Prospectus could cause our actual results to differ from any forward-looking statements. You should consider these risks carefully before deciding to purchase shares of our common stock.

OUR COMPANY

KVH was organized in Rhode Island in 1978 and was reincorporated in Delaware on August 16, 1985. We completed our initial public offering in April 1996. Our executive offices are located at 50 Enterprise Center, Middletown, Rhode Island, 02842, and our telephone number is (401) 847-3327. References to KVH or our Company include KVH Industries, Inc., and KVH Europe A/S, its Danish sales subsidiary, unless the context otherwise requires.

We develop and manufacture innovative, mobile, high-bandwidth satellite communications systems, navigation products, and fiber optic sensors, connecting people in moving vehicles with data through channels like the Internet and the military's "digital battlefield." Beginning with the invention of the digital compass, we have introduced a series of innovative products, including the development of breakthrough satellite communications products and the integration of our fiber optic technology, throughout our product lines.

Use of Proceeds

We will not receive any proceeds from the sale of common stock being offered in this Reoffer Prospectus by the selling stockholders.

Selling Stockholders

The following table sets forth certain information with respect to the beneficial ownership of our common stock by each of the selling stockholders as of July 30, 2001 and as adjusted to reflect the sale of the shares of common stock offered hereby for all selling stockholders. Beneficial ownership of the common stock by the selling stockholders following this offering will depend on the number of shares sold by each selling stockholder. The shares of common

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stock offered by this Reoffer Prospectus may be offered from time to time by the selling stockholders named below. The following table assumes that all the common stock offered by this Reoffer Prospectus is sold. In addition, certain non-affiliates of KVH who each hold less than the lesser of 1,000 shares and 1% of the shares issuable under the plan pursuant to which such shares were granted and who, therefore, are not required to be named in the following table may use this Reoffer Prospectus for offers and sales of up to an aggregate of 41,595 shares of common stock.

We determined ownership in accordance with rules of the Securities and Exchange Commission. Beneficial ownership includes voting power and/or investment power with respect to the securities held by the named individuals. Shares of common stock subject to options currently exercisable or exercisable within 60 days of July 30, 2001, are deemed outstanding for purposes of computing the percentage beneficially owned by the person holding the options but are not deemed outstanding for purposes of computing the percentage beneficially owned by any other person. Except as otherwise noted, the persons or entities named have sole voting and investment power with respect to all shares shown as beneficially owned by them. We have calculated the percentage beneficially owned based upon the 10,923,649 shares of common stock outstanding as of July 30, 2001.

| Name and Relationship with the Company | Shares Beneficially Owned Before Offering(1) | | Number of Shares Being Registered For Sale Hereby | Share Num |
|---|---|---------|---|--------------|
| | Number | Percent | | |
| Mary D. Aceto | 1,682 | * | 1,561 | 1 |
| Donnie E. Allen | 19,399 | * | 3,653 | 15, |
| Sidney M. Bennett | 41,147 | * | 3,439 | 37, |
| Mads Bjerre-Petersen | 52,960 | * | 3,665 | 49, |
| Lois K. Brashler | 1,406 | * | 1,272 | 1 |
| Nancy A. Brennan | 5,933 | * | 1,409 | 4, |
| Jeffrey P. Brunner | 30,500 | * | 4,321 | 26, |
| Christopher Burnett | 98,405 | * | 5,450 | 92, |
| William G. Burns | 2,796 | * | 1,355 | 1, |
| John Cabral | 1,216 | * | 905 | 3 |
| Stephen M. Cote | 5,313 | * | 1,610 | 3, |

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| | | | | |
|----------------------|--------|---|-------|-----|
| James Dodez | 75,475 | * | 5,200 | 70, |
| Edward Dunne | 12,270 | * | 3,757 | 8, |
| Jeffrey O. Hawes | 20,496 | * | 3,955 | 16, |
| Christine Marion | 2,817 | * | 1,022 | 1, |
| John J. McAlarney | 12,557 | * | 3,441 | 9, |
| Robert J. Miller | 8,327 | * | 2,593 | 5, |
| Sandra M. Mitchell | 2,335 | * | 1,409 | 9 |
| Joseph Napoli | 4,884 | * | 1,084 | 3, |
| Gerald Ormseth | 3,592 | * | 1,399 | 2, |
| James Rossi | 7,762 | * | 1,262 | 6, |
| Vincent J. Tarricone | 1,075 | * | 638 | 4 |
| Robert Young | 4,934 | * | 1,688 | 3, |
| Susan Young | 3,992 | * | 1,180 | 2, |

* Less than 1%.

(1) Includes shares of common stock not currently owned but which are subject to options currently exercisable or exercisable within 60 days of July 30, 2001.

The Registration Statement shall also cover any additional shares of common stock that become issuable in connection with the shares of common stock registered for sale hereby by reason of any stock dividend, stock split, recapitalization, or other similar transaction effected without the receipt of consideration that results in an increase in the number of outstanding shares of our common stock.

PLAN OF DISTRIBUTION

The shares offered hereby may be sold from time to time by the selling stockholders, the pledgees, donees, transferees or other successors in interest of the selling stockholders and by certain unnamed non-affiliates of the company, each of whom holds less than 1,000 shares purchased under our Amended and Restated 1996 Employee Stock Purchase Plan. Such sales may be made on one or more exchanges or in the over-the-counter market, or otherwise at prices and at terms then prevailing or at prices related to the then current market price, or in negotiated transactions. The shares may be sold by one or more of the following methods:

- a block trade in which the broker or dealer so engaged will attempt to sell the shares as agent but may position and resell a portion of the block as principal to facilitate the transaction;

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- purchases by a broker or dealer as principal and resale by such broker or dealer for its own account pursuant to this Reoffer Prospectus;
 - an exchange distribution in accordance with the rules of such exchange;
- and
- ordinary brokerage transactions and transactions in which the broker solicits purchasers.

In effecting sales, brokers or dealers engaged by the selling stockholders may arrange for other brokers or dealers to participate. Brokers or dealers will receive commissions or discounts from selling stockholders in amounts to be negotiated immediately prior to the sale. The selling stockholders and any broker-dealers that participate in the distribution may be deemed to be "underwriters" within the meaning of Section 2(11) of the Securities Act, and any commission received by them and any profit on the resale of shares sold by them may be deemed to be underwriting discounts and commissions. In addition, any securities covered by this Reoffer Prospectus that qualify for sale pursuant to Rule 144 may be sold under Rule 144 rather than pursuant to the Reoffer Prospectus.

If a selling stockholder notifies us that any material arrangement has been entered into with a broker-dealer for the sale of the shares through a block trade, special offering, exchange distribution or secondary distribution or a purchase by a broker or dealer, we will file a supplement to this Reoffer Prospectus, if required, pursuant to Rule 424(c) under the Securities Act, disclosing the following information:

- the name of each selling stockholder and of the participating broker-dealer(s);
 - the number of shares involved;
 - the price at which such shares were sold;
 - the commissions paid or discounts or concessions allowed to such broker-dealer(s), where applicable;
 - that such broker-dealer(s) did not conduct any investigation to verify the information set out or incorporated by reference in this Reoffer Prospectus;
- and
- other facts material to the transaction.

We have agreed to pay the expenses incurred in connection with preparing and filing the Registration Statement and this Reoffer Prospectus (other than selling commissions).

Legal Matters

The validity of the shares of common stock offered hereby will be passed upon for us by Foley, Hoag & Eliot llp of Boston, Massachusetts.

Experts

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The consolidated financial statements and schedule included in the Annual Report on Form 10-K of KVH Industries., Inc. for the fiscal year ended December 31, 2000, incorporated by reference herein and elsewhere in the Registration Statement, have been incorporated by reference herein and in the registration statement in reliance upon the reports of KPMG LLP, independent certified public accountants, incorporated by reference herein, and upon the authority of said firm as experts in accounting and auditing.

No broker, dealer or any other person has been authorized to give any information or to make any representations in connection with this offering other than those contained in this Reoffer Prospectus, and, if given or made, such information or representations must not be relied upon as having been authorized by us or any selling stockholder. This Reoffer Prospectus does not constitute an offer to sell or a solicitation of an offer to buy any securities other than the shares of common stock to which it relates or an offer to, or a solicitation of, any person in any jurisdiction where such an offer or solicitation would be unlawful. Neither the delivery of this Reoffer Prospectus nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the company since the date hereof or that information contained herein is correct as of any time subsequent to its date.

KVH Industries, Inc.

98,863 Shares of Common Stock

PROSPECTUS

August 15, 2001

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 8. Exhibits.

| Exhibit No. | Description |
|----------------|--|
| 4.1 | Amended and Restated 1996 Incentive and Nonqualified Stock Option Plan |

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- 4.2 Amended and Restated 1996 Employee Stock Purchase Plan.
- 5.1 Opinion of Foley, Hoag & Eliot llp
- 23.1 Consent of KPMG llp
- 23.2 Consent of Foley, Hoag & Eliot llp (included in Exhibit 5.1)
- 24.1 Power of Attorney (contained on the signature page)

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, KVH Industries, Inc. 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 Town of Middletown, Rhode Island, on this 15th day of August, 2001.

KVH Industries, Inc.

By: /s/ Martin A. Kits van Heyningen
Martin A. Kits van Heyningen
President and Chief Executive Officer

POWER OF ATTORNEY

The undersigned officers and directors of KVH Industries, Inc. hereby severally constitute and appoint Martin A. Kits van Heyningen his true and lawful attorneys-in-fact and agents with full power of substitution, 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, and to file the same, with all exhibits thereto, and all 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 which they, or any of them, may deem necessary or advisable to be done in connection with this registration statement, 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 any substitute or substitutes for any or all of them, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the indicated capacities as of August 15, 2001.

| Signature | Title | |
|---------------------------------|--------------------------------------|-----------------|
| /s/Martin A. Kits van Heyningen | Chief Executive Officer and Director | August 15, 2001 |
| Martin A. Kits van Heyningen | (Principal Executive Officer) | |

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| | | |
|--|--|-----------------|
| /s/Richard C. Forsyth. Richard C. Forsyth | Chief Financial Officer (Principal Accounting and Financial Officer) | August 15, 2001 |
| /s/Arent H. Kits van Heyningen Arent H. Kits van Heyningen | Director | August 15, 2001 |
| /s/Robert W. B. Kits van Heyningen Robert W.B. Kits van Heyningen | Director | August 15, 2001 |
| /s/Mark S. Ain Mark S. Ain | Director | August 15, 2001 |
| /s/Stanley K. Honey Stanley K. Honey | Director | August 15, 2001 |
| /s/Werner Trattner Werner Trattner | Director | August 15, 2001 |
| Charles R. Trimble | Director | |

EXHIBIT INDEX

| Exhibit No. | Description |
|----------------|--|
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| 4.2 | Amended and Restated 1996 Employee Stock Purchase Plan |
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| 23.2 | Consent of Foley, Hoag & Eliot llp (included in Exhibit 5.1) |
| 24.1 | Power of Attorney (contained on the signature page) |

Exhibit 5.1

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August 15, 2001

KVH Industries, Inc.
110 Enterprise Center
Middletown, RI 02842

Ladies and Gentlemen:

We have acted as counsel for KVH Industries, Inc., a Delaware corporation (the "Company"), in connection with the preparation and filing with the Securities and Exchange Commission under the Securities Act of 1933, as amended, of a Registration Statement on Form S-8 (the "Registration Statement") relating to the offering by the Company of 1,250,000 shares (the "Shares") of its common stock, \$.01 par value, issuable pursuant to the KVH Industries, Inc. Amended and Restated 1996 Incentive and Nonqualified Stock Option Plan and Amended and Restated 1996 Employee Stock Purchase Plan (the "Plans").

In arriving at the opinions expressed below, we have examined and relied on the following documents:

- (i) the Registration Statement;
- (ii) copies of the Plans;
- (iii) the Certificate of Incorporation of the Company, as amended as of the date hereof;
- (iv) the By-Laws of the Company, as amended as of the date hereof; and
- (v) the records of meetings and consents of the Board of Directors and stockholders of the Company provided to us by the Company.

In addition, we have examined and relied on the originals or copies certified or otherwise identified to our satisfaction of all such other records, documents and instruments of the Company and such other persons, and we have made such investigations of law, as we have deemed appropriate as a basis for the opinions expressed below. We have assumed the genuineness of all signatures and the authenticity of all documents submitted to us as originals and the conformity to the original documents of all documents submitted to us as certified or photostatic copies.

We express no opinion other than as to the General Corporation Law of the State of Delaware.

Based upon the foregoing, we are of the opinion that:

1. The Company has the corporate power necessary for the issuance of the Shares under the Plans, as contemplated by the Registration Statement.
2. The Shares have been duly authorized and, when issued against payment of the agreed consideration therefor in accordance with the respective exercise prices therefor as described in each of the Plans, will be validly issued, fully paid and non-assessable.

We consent to the filing of this opinion as Exhibit 5.1 to the Registration Statement.

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Very truly yours,

Foley, Hoag & Eliot LLP

By /s/Adam Sonnenschein
Adam Sonnenschein, Esq.

Exhibit 23.1

CONSENT OF INDEPENDENT AUDITORS

The Board of Directors
KVH Industries, Inc.

We consent to the use of our reports included in the KVH Industries, Inc. Annual Report on Form 10-K for the fiscal year ended December 31, 2000, which is incorporated by reference herein, and to the reference to our firm under the heading "Experts" in the prospectus.

/s/ KPMG LLP

Providence, Rhode Island
August 14, 2001