

ROSETTA STONE INC  
Form S-8  
March 30, 2012

As filed with the Securities and Exchange Commission on March 30, 2012

Registration No. 333-

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM S-8**

**REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933**

**ROSETTA STONE INC.**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of incorporation or organization)

**043837082**

(I.R.S Employer Identification No.)

**1919 North Lynn St., 7th Fl, Arlington, Virginia**

(Address of Principal Executive Offices)

**22209**

(Zip Code)

**2009 Omnibus Incentive Plan**

(Full title of the plan)

**Michael C. Wu**

**General Counsel**

**1919 North Lynn Street**

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7th Floor

Arlington, Virginia 22209

Telephone: 800-788-0822

Copies to:

**Brian P. Fenske.**

Fulbright & Jaworski L.L.P.

Fulbright Tower

1301 McKinney, Suite 5100

Houston, Texas 77010

Telephone: (713) 651-5557

Facsimile: (713) 651-5246


(Name, address, and telephone number, including area code, of agent for service)

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	<input type="radio"/>	Accelerated filer	<input checked="" type="radio"/>
Non-accelerated filer	<input type="radio"/>	Smaller reporting company	<input type="radio"/>

(Do not check if a 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
				

(1) Pursuant to Rule 416 under the Securities Act of 1933, as amended, this Registration Statement also covers an additional indeterminable number of shares as may be necessary to adjust the number of shares being offered or issued pursuant to the plans as a result of stock splits, stock dividends or similar transactions.

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(2) Estimated in accordance with Rules 457(c) and (h) under the Securities Act of 1933, as amended, solely for the purpose of calculating the registration fee, based upon the average high and low prices of the Common Stock on March 23, 2012, as reported on the NYSE.

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**EXPLANATORY NOTE**

Rosetta Stone Inc., a Delaware corporation (the Company or the Registrant), previously registered 2,437,744 shares of its Common Stock, \$0.00005 par value per share (Common Stock), available for grant of awards under the Company's 2009 Omnibus Incentive Plan (the 2009 Plan). The registration of such shares of Common Stock was filed on a Form S-8 Registration Statement with the Securities and Exchange Commission (SEC) on April 28, 2009 (File Number 333-158828), in accordance with the Securities Act (the Prior Registration Statement).

The Company's Board of Directors adopted, and on May 26, 2011 the stockholders of the Company approved, an amendment to the 2009 Plan to provide that, among other things, an additional 1,000,000 shares of Common Stock be available under the 2009 Plan.

This Registration Statement relates to securities of the same class as those to which the Prior Registration Statement relates, and is submitted in accordance with General Instruction E to Form S-8 regarding Registration of Additional Securities. Pursuant to Instruction E of Form S-8, the content of the Prior Registration Statement is incorporated herein by reference and made part of this Registration Statement, except as amended hereby.

**PART II**

**INFORMATION REQUIRED IN THE REGISTRATION STATEMENT**

**ITEM 3. Incorporation of Documents by Reference.**

The Registrant hereby incorporates by reference into this Registration Statement the following documents and information previously filed with the Commission:

(i) Registrant's Annual Report on Form 10-K for its fiscal year ended December 31, 2011 as filed with the Commission on March 14, 2012;

(ii) Registrant's Current Reports on Form 8-K filed with the Commission on January 11, 2012, February 23, 2012 and February 29, 2012; provided, however, that information furnished pursuant to Item 2.02 or Item 7.01 of any Form 8-K, including any exhibits included with such information, shall not be deemed incorporated by reference;

(iii) All other reports filed pursuant to Section 13(a) or 15(d) of the Securities Exchange Act since the end of the fiscal year covered by the annual report referred to in (a) above; and

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(iv) The description of our Common Stock contained in our Registration Statement on Form 8-A (File No. 001-34283) filed with the Commission on April 13, 2009, pursuant to Section 12(b) of the Securities Exchange Act of 1934, as amended, including any amendment or report filed for the purpose of updating such description.

All documents filed by us pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934, as amended (other than Current Reports on Form 8-K furnished pursuant to Item 2.02 or Item 7.01 of Form 8-K, including any exhibits included with such information, unless otherwise indicated therein), subsequent to the date of this Registration Statement and prior to the filing of a post-effective amendment that indicates that all securities offered have been sold or that deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference herein and to be a part hereof from the date of filing of such documents.

Any statement contained in this Registration Statement or in a document incorporated or deemed to be incorporated herein by reference 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, or 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 8. Exhibits.**

For a list of exhibits, see the Exhibit Index in this Registration Statement, which information is incorporated herein by reference.

**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 Arlington, State of Virginia, on March 30, 2012.

ROSETTA STONE INC.

By: /s/ Stephen M. Swad  
 Stephen M. Swad  
 President and Chief Executive Officer

**POWER OF ATTORNEY**

We, the undersigned officers and directors of Rosetta Stone Inc., hereby severally constitute and appoint Stephen M. Swad and Michael C. Wu, and each of them singly (with full power to each of them to act alone), our true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution in each of them for him and in his name, place and stead, and 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 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 or necessary to be done in and about the premises, as full 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 substitute or substitutes, may lawfully 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.

Name	Title	Date
/s/ Stephen M. Swad Stephen M. Swad	President and Chief Executive Officer (Principal Executive, Financial and Accounting Officer)	March 30, 2012
/s/ Tom P. H. Adams Tom P. H. Adams	Chairman of the Board	March 30, 2012
/s/ Phillip A. Clough Phillip A. Clough	Director	March 30, 2012
/s/ John T. Coleman John T. Coleman	Director	March 30, 2012
/s/ Laurence Franklin Laurence Franklin	Director	March 30, 2012
/s/ Patrick W. Gross Patrick W. Gross	Director	March 30, 2012

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/s/ Marguerite W. Kondracke Marguerite W. Kondracke	Director	March 30, 2012
/s/ Theodore J. Leonsis Theodore J. Leonsis	Director	March 30, 2012
/s/ John E. Lindahl John E. Lindahl	Director	March 30, 2012
/s/ Laura L. Witt Laura L. Witt	Director	March 30, 2012

**EXHIBIT INDEX**

<b>Exhibit No.</b>	<b>Exhibit Description</b>
4.1*	Specimen certificate evidencing shares of common stock
5.1	Opinion of Fulbright & Jaworski L.L.P. regarding legality of securities being registered
23.1	Consent of Deloitte & Touche LLP, independent registered public accounting firm
23.2	Consent of Counsel (contained in Exhibit 5.1)
24.1	Power of Attorney (included as part of signature page to this Registration Statement)
99.1*	2009 Omnibus Incentive Plan and forms of agreements thereunder
99.2	First Amendment to the Rosetta Stone Inc. 2009 Omnibus Incentive Plan

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\* Incorporated by reference to exhibits filed with the Registrant's Registration Statement on Form S-1, as amended (Registration No. 333-153632), as declared effective on April 15, 2009