

CERAGON NETWORKS LTD
Form S-8
August 02, 2004

As filed with the Securities and Exchange Commission on August 2, 2004

Registration No. 333-54356

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM S-8

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

Ceragon Networks Ltd.

(Exact Name of Registrant as Specified in its Charter)

Israel
(State or Other Jurisdiction of
Incorporation or Organization)

N/A
(I.R.S. Employer Identification No.)

**24 Raoul Wallenberg Street
Tel Aviv 69719, Israel
972-3-645-5733**

(Address, Including Zip Code, and Telephone Number,
including Area Code, of Registrant's Principal Executive Offices)

**CERAGON NETWORKS LTD. 2003 SHARE OPTION PLAN
CERAGON NETWORKS LTD. KEY EMPLOYEE SHARE INCENTIVE PLAN 1996
CERAGON NETWORKS LTD. AFFILIATE EMPLOYEE OPTION PLAN**
(Full Title of Plan)

**Ceragon Networks, Inc.
10 Forest Avenue
Paramus, NJ 07652
Telephone: (201) 845-6955**

(Name and Address, Including Zip Code,
and Telephone Number, Including Area Code, of Agent For Service)

Copies to:

**Frank Lee, Esq.
Nixon Peabody LLP
437 Madison Avenue
New York, New York 10022
212-940-3000
Facsimile: 212-940-3111**

**Shraga Katz
Ceragon Networks Ltd.
24 Raoul Wallenberg Street
Tel Aviv 69719, Israel
972-3-766-6770
Facsimile: 972-3-645-5499**

CALCULATION OF REGISTRATION FEE

| Title of Securities to Be Registered | Amount to Be Registered(1) | Proposed Maximum Offering Price Per Share | Proposed Maximum Aggregate Offering Price | Amount of Registration Fee |
|---|-----------------------------------|--|--|-----------------------------------|
| Ordinary shares, par value NIS 0.01 per share | 1,289,008 (2) | \$ 2.07 (3) | \$ 2,668,247 (3) | \$ 338 |

CALCULATION OF REGISTRATION FEE

| | | | | |
|---|---------------|-------------|------------------|-------------|
| Ordinary shares, par value NIS 0.01 per share | 206,600 (4) | \$ 3.87 (5) | \$ 799,542 (5) | \$ 102 |
| Ordinary shares, par value NIS 0.01 per share | 1,919,901 (6) | \$ 4.31 (7) | \$ 8,274,774 (7) | \$ 1,049 |
| Ordinary shares, par value NIS 0.01 per share | 1,179 (8) | \$ 5.36 (9) | \$ 6,319 (9) | \$ 0.80 |
| Total | | | \$ 11,748,882 | \$ 1,489.80 |

- (1) Plus such indeterminate number of ordinary shares as may be issued to prevent dilution resulting from stock dividends, stock splits or similar transactions in accordance with Rule 416 under the Securities Act of 1933.
- (2) Issuable pursuant to options that have been granted under the Ceragon Networks Ltd. Key Employee Share Incentive Plan 1996.
- (3) Pursuant to Rule 457(h)(1) under the Securities Act of 1933, as amended, for the purpose of calculating the maximum aggregate offering price and the registration fee, the proposed maximum offering price per share is the weighted average exercise price of \$2.07 per share.
- (4) Issuable pursuant to options that have been granted under the Ceragon Networks Ltd. Affiliate Employees Option Plan.
- (5) Pursuant to Rule 457(h)(1) under the Securities Act of 1933, as amended, for the purpose of calculating the maximum aggregate offering price and the registration fee, the proposed maximum offering price per share is the weighted average exercise price of \$3.87 per share.
- (6) Issuable pursuant to options that have been granted under the Ceragon Networks 2003 Share Option Plan.
- (7) Pursuant to Rule 457(h)(1) under the Securities Act of 1933, as amended, for the purpose of calculating the maximum aggregate offering price and the registration fee, the proposed maximum offering price per share is the weighted average exercise price of \$4.31 per share.
- (8) Issuable under the Ceragon Networks 2003 Share Option Plan, in respect of which options have yet to be granted.
- (9) Pursuant to Rule 457(h)(1) under the Securities Act of 1933, as amended, the proposed maximum offering price per share was estimated based on the average high and low sale prices of the ordinary shares as reported by The Nasdaq National Market on July 21, 2004.

PART I**INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS****Item 1. Plan Information.**

The documents containing the information specified in Part I of Form S-8, the statement of availability of information required by Item 2 of Form S-8 and the information relating to the Ceragon Networks Ltd. 2003 Share Option Plan, the Ceragon Networks Ltd. Key Employee Share Incentive Plan 1996 and the Ceragon Networks Ltd. Affiliate Employees Option Plan (collectively, the Plans) and other information required by Item 2 of Form S-8 have previously been, or will be sent or given to the participants of the Plans, as specified by Rule 428(b)(1) under the Securities Act of 1933, as amended (the Securities Act). Such documents are not required to be and are not filed with the Securities and Exchange Commission (the Commission) either as part of this Registration Statement or as prospectuses or prospectus supplements pursuant to Rule 424. These documents and the documents incorporated by reference in this Registration Statement pursuant to Item 3 of Part II of this Form S-8, taken together, constitute a prospectus that meets the requirements of Section 10(a) of the Securities Act.

Item 2. Registrant Information and Employee Plan Annual Information.

Upon written or oral request, any of the documents incorporated by reference in Item 3 of Part II of this Registration Statement (which documents are incorporated by reference in this Section 10(a) Prospectus), along with other documents required to be delivered to eligible employees pursuant to Rule 428(b) or additional information about the Plans and its administrators, are available without charge by contacting:

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Ceragon Networks Ltd.
24 Raul Wallenberg Street
Tel Aviv 96719, Israel
972-3-766-6770

Attention: Shraga Katz, President and Chief Executive Officer

The shares covered by this registration statement are being offered pursuant to an exemption from the obligation to publish a prospectus in a manner required pursuant to the Securities Law of the State of Israel. Nothing in such exemption shall be construed as authenticating the matters contained herein or as an approval of their reliability or adequacy or as an expression of opinion as to the quality of the securities covered hereby.

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PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents filed with the Commission by Ceragon Networks Ltd. (the Company) are incorporated herein by reference:

- (a) The Company's Annual Report on Form 20-F for the fiscal year ended December 31, 2003, filed on June 30, 2004;
- (b) The Company's reports on Form 6-K filed on February 7, 2003, May 6, 2003, July 29, 2003, October 30, 2003, December 22, 2003, February 17, 2004, May 6, 2004 and June 24, 2004, and three amendments thereto filed on June 30, 2004; and
- (c) The description of the Company's Ordinary Shares, par value NIS 0.01 per share, contained in the Company's Prospectus filed with the Commission pursuant to Rule 424(b), dated August 3, 2000.

All documents subsequently filed by the Company with the Commission pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934 (the Exchange Act), after the date of this Registration Statement and prior to the filing of a post-effective amendment to this Registration Statement which indicates that all securities covered by this Registration Statement have been sold or which deregisters all of the securities then remaining unsold, and all Reports of Foreign Private Issuer on Form 6-K submitted by the Company to the Commission during such period, or portions thereof that are identified in such forms as being incorporated into this Registration Statement, will be deemed to be incorporated by reference in this Registration Statement and to be a part of this document from the date of filing of such documents. Any statement contained in a document incorporated or deemed to be incorporated by reference in this document will be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained in this document or in any other subsequently filed document which also is or is deemed to be incorporated by reference in this document modifies or supersedes such statement. Any such statement so modified or superseded will not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

Not applicable.

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Item 6. Indemnification of Directors and Officers.

Under the Companies Law, an Israeli company may not exempt an office holder from liability for a breach of his duty of loyalty, but may exempt in advance an office holder from his liability to the company, in whole or in part, for breach of his duty of care.

Office Holders Insurance

Our articles of association provide that, subject to the provisions of the Companies Law, we may enter into a contract for the insurance of the liability of any of our office holders concerning an act performed by him in his capacity as an office holder for:

a breach of his duty of care to us or to another person;

a breach of his duty of loyalty to us, provided that the office holder acted in good faith and had reasonable cause to assume that his act would not prejudice our interests; or

a financial liability imposed upon him in favor of another person.

Indemnification of Office Holders

Our articles of association provide that we may indemnify any of our office holders against an act performed in his capacity as an office holder, including indemnity for the following:

a financial liability imposed on him in favor of another person; and

reasonable litigation expenses, including attorneys' fees, expended by the office holder or charged to him by a court, resulting from: proceedings we institute against him or instituted on our behalf or by another person; a criminal charge from which he was acquitted; or a criminal charge in which he was convicted for a criminal offense that does not require proof of intent.

Our articles of association also include the following:

We are authorized to grant in advance an undertaking to indemnify our office holders, provided that the undertaking is limited to specified events which the board of directors determines to be anticipated and limited to an amount determined by the board of directors to be reasonable under the circumstances.

We are authorized to indemnify retroactively our office holders.

Limitations on Insurance and Indemnification

The Companies Law provides that a company may not indemnify an office holder nor enter into an insurance contract which would provide coverage for any monetary liability incurred as a result of any of the following:

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a breach by the office holder of his duty of loyalty unless the office holder acted in good faith and had a reasonable basis to believe that the act would not prejudice the company;

a breach by the office holder of his duty of care if the breach was done intentionally or recklessly;

any act or omission done with the intent to derive an illegal personal benefit; or

any fine levied against the office holder.

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In addition, under the Companies Law, indemnification of, and procurement of insurance coverage for, our office holders must be approved by our audit committee and our board of directors and, in specified circumstances, by our shareholders.

We have agreed to indemnify our office holders to the fullest extent permitted under the Companies Law. We have obtained directors and officers liability insurance for the benefit of our office holders.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

| Exhibit Number | Description of Exhibit |
|-----------------------|--|
| 4.1 | - Form of Ordinary Share Certificate (incorporated herein by reference to Exhibit 4.1 to the Company's Registration Statement on Form F-1 (No. 333-12312)) |
| 4.2 | - Memorandum of Association of the Company (incorporated herein by reference to Exhibit 3.1 to the Company's Registration Statement on Form F-1 (No. 333-12312)) |
| 4.3 | - Articles of Association of the Company (incorporated herein by reference to Exhibit 3.2 to the Company's Registration Statement on Form F-1 (No. 333-12312)) |
| 4.4 | - Key Employee Share Incentive Plan 1996 (incorporated herein by reference to Exhibit 10.1 to the Company's Registration Statement on Form F-1 (No. 333-12312)) |
| 4.5 | - Affiliate Employees Share Option Plan (incorporated herein by reference to Exhibit 10.2 to the Company's Registration Statement on Form F-1 (No. 333-12312)) |
| *4.6 | - Ceragon Networks Ltd. 2003 Share Option Plan |

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- *5.1 - Opinion of Goldfarb, Levy, Eran & Co.
 - *23.1 - Consent of Ernst & Young
 - *23.2 - Consent of Goldfarb, Levy, Eran & Co. (included in Exhibit 5.1)
 - *24 - Power of Attorney (included as part of this Registration Statement on the signature page hereto)

* Filed herewith

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;

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- (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; 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 paragraph (a)(1)(i) and (a)(1)(ii) do not apply if the information required to be included in a post-effective amendment by the foregoing paragraphs is contained in periodic reports, filed by the Company 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 of 1933, 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 bonafide offering thereof.

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- (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 of 1933, 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 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.

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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 Tel Aviv, State of Israel, on this 2nd day of August, 2004.

Ceragon Networks Ltd.

BY: /s/ Shraga Katz

Shraga Katz
President and Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Zohar Zisapel, Shraga Katz and Yael Langer and each of them, his/her true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for him/her and in his/her name, place and stead, in any and all capacities, to sign any and all 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 attorney-in-fact and agent full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he/she might or could do in person, hereby ratifying and confirming all that said attorney-in-fact and agent, or his/her substitute or substitutes, 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 capacities and on the date indicated.

| <u>Signature</u> | <u>Title</u> | <u>Date</u> |
|-------------------|---------------------------------------|----------------|
| /s/ Zohar Zisapel | | |
| Zohar Zisapel | Chairman of the Board of Directors | August 2, 2004 |
| /s/ Shraga Katz | | |
| Shraga Katz | President and Chief Executive Officer | August 2, 2004 |
| /s/ Ran Oz | | |
| Ran Oz | Chief Financial Officer | August 2, 2004 |
| /s/ Zohar Gilon | | |
| Zohar Gilon | Director | August 2, 2004 |

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| /s/ Yael Langer | | |
| Yael Langer | Director | August 2, 2004 |
| /s/ Shmuel Levy | | |
| Shmuel Levy | Director | August 2, 2004 |
| /s/ Joseph Atsmon | | |
| Joseph Atsmon | Director | August 2, 2004 |
| Authorized Representative in the United States: | | August 2, 2004 |
| Ceragon Networks, Inc. | | |
| BY: /s/ David Ackerman | | August 2, 2004 |
| David Ackerman President | | |

EXHIBIT INDEX

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* Filed herewith