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

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

Applied Optoelectronics, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

76-0533927
(I.R.S. Employer
Identification Number)

**13139 Jess Pirtle Blvd.
Sugar Land, TX 77478
(281) 295-1800**

(Address, including zip code, and telephone number,
including area code, of Registrant's principal executive offices)

Applied Optoelectronics, Inc. 2021 Equity Incentive Plan
(Full title of the plan)

**Stefan J. Murry
Chief Financial Officer
Applied Optoelectronics, Inc.
13139 Jess Pirtle Blvd.
Sugar Land, TX 77478
(281) 295-1800**

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

Copies to:

**David C. Kuo
General Counsel
Applied Optoelectronics, Inc.
13139 Jess Pirtle Blvd.
Sugar Land, TX 77478
(281) 295-1800**

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input checked="" type="checkbox"/>	Smaller reporting company	<input checked="" type="checkbox"/>
		Emerging growth company	<input type="checkbox"/>

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.

PART II
INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

Applied Optoelectronics, Inc. (the “Registrant”) hereby incorporates by reference into this Registration Statement on Form S-8 (this “Registration Statement”) the following documents previously filed with the U.S. Securities and Exchange Commission (the “Commission”):

- a. The Registrant’s [Annual Report on Form 10-K for its fiscal year ended December 31, 2022 \(the “Annual Report”\), filed with the Commission on February 27, 2023](#) pursuant to Section 13(a) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), as amended by [Amendment No. 1 to the Registrant’s Annual Report on Form 10-K/A, filed with the Commission on March 10, 2023](#);
- b. The Registrant’s [Quarterly Report on Form 10-Q for its fiscal quarter ended March 31, 2023, filed on May 4, 2023](#) pursuant to Section 13(a) of the Exchange Act;
- c. The Registrant’s Current Reports on Form 8-K filed on [March 24, 2023](#), [May 3, 2023](#), [June 12, 2023](#), [June 14, 2023](#) and [June 21, 2023](#), and all other reports filed with the Commission pursuant to Sections 13(a) or 15(d) of the Exchange Act since the end of the fiscal year covered by the Registrant’s Annual Report;
- d. The description of the Registrant’s common stock, par value \$0.001, contained in the Registrant’s [Registration Statement on Form 8-A \(File No. 001-36083\)](#) pursuant to Section 12(b) of the Exchange Act, as updated by the description of the Registrant’s registered securities contained in [Exhibit 4.4](#) to the Registrant’s Annual Report on Form 10-K for its fiscal year ended December 31, 2019, filed with the Commission on February 28, 2020, including any amendment or report filed for the purpose of updating such description.

All documents filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act after the date of this Registration Statement and prior to the filing of a post-effective amendment to this Registration Statement that indicates that all securities offered hereby have been sold or that de-registers all securities then remaining unsold shall be deemed to be incorporated by reference in this Registration Statement and to be a part hereof from the date of filing of such documents; provided, however, that documents or information deemed to have been furnished and not filed in accordance with the rules of the Commission shall not be deemed incorporated by reference into this Registration Statement. Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained 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 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

None.

Item 6. Indemnification of Directors and Officers.

Subsection (a) of Section 145 of the General Corporation Law of the state of Delaware, or the DGCL, empowers a corporation to indemnify any person who was or is a party or who is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation) by reason of the fact that the person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys’ fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with such action, suit or proceeding if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe the person’s conduct was unlawful.

Subsection (b) of Section 145 empowers a corporation to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that the person acted in any of the capacities set forth above, against expenses (including attorneys' fees) actually and reasonably incurred by the person in connection with the defense or settlement of such action or suit if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation, except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

Section 145 further provides that to the extent a director or officer of a corporation has been successful on the merits or otherwise in the defense of any action, suit or proceeding referred to in subsections (a) and (b) of Section 145, or in defense of any claim, issue or matter therein, such person shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by such person in connection therewith; that indemnification provided for by Section 145 shall not be deemed exclusive of any other rights to which the indemnified party may be entitled; and the indemnification provided for by Section 145 shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of such person's heirs, executors and administrators. Section 145 also empowers the corporation to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person's status as such, whether or not the corporation would have the power to indemnify such person against such liabilities under Section 145.

Provisions in the Registrant's amended and restated certificate of incorporation and amended and restated bylaws limit or eliminate the personal liability of the Registrant's directors to the fullest extent permitted by the DGCL, as it now exists or may in the future be amended. Consequently, a director will not be personally liable to the Registrant or the Registrant's stockholders for monetary damages or breach of fiduciary duty as a director, except for liability for:

- any breach of the director's duty of loyalty to the Registrant or the Registrant's stockholders;
- any act or omission not in good faith or that involves intentional misconduct or a knowing violation of law;
- any unlawful payments related to dividends or unlawful stock purchases, redemptions or other distributions; or
- any transaction from which the director derived an improper personal benefit.

These limitations of liability do not alter director liability under the federal securities laws and do not affect the availability of equitable remedies such as an injunction or rescission.

In addition, the Registrant's amended and restated bylaws provide that:

- the Registrant will indemnify its directors, officers and, in the discretion of the Registrant's board of directors, certain employees to the fullest extent permitted by the DGCL, as it now exists or may in the future be amended; and
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the Registrant will advance reasonable expenses, including attorneys' fees, to its directors and, in the discretion of the Registrant's board of directors, to its officers and certain employees, in connection with legal proceedings relating to their service for or on behalf of the Registrant, subject to limited exceptions.

The Registrant has entered into indemnification agreements with each of its directors and certain of its executive officers. These agreements provide that the Registrant will indemnify each of its directors and certain of its executive officers to the fullest extent permitted by Delaware law.

The Registrant also maintains general liability insurance which covers certain liabilities of its directors and officers arising out of claims based on acts or omissions in their capacities as directors or officers, including liabilities under the Securities Act of 1933, as amended (the "Securities Act").

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

Exhibit Number	Description
4.1	Amended and Restated Certificate of Incorporation (incorporated by reference to Exhibit 3.1 to the Registrant's Form 10-Q filed on November 14, 2013 (File No. 001-36083)).
4.2	Amended and Restated Bylaws (incorporated by reference to Exhibit 3.2 to the Registrant's Form 10-Q filed on November 14, 2013 (File No. 001-36083)).
5.1*	Opinion of Perkins Coie LLP as to the legality of the securities being registered.
23.1*	Consent of Perkins Coie LLP (contained in Exhibit 5.1).
23.2*	Consent of Grant Thornton LLP.
24.1*	Powers of Attorney (included on the signature page of this Registration Statement).
99.1	Applied Optoelectronics, Inc. 2021 Equity Incentive Plan (incorporated by reference to Exhibit 10.1 to the Registrant's Form 8-K filed on June 12, 2023).
107*	Filing Fee Table

* Filed herewith.

Item 9. Undertakings.

1. The undersigned Registrant hereby undertakes:

(a) 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;

(ii) To reflect in the prospectus any facts or events arising after the effective date of this 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 this Registration Statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in this Registration Statement or any material change to such information in this Registration Statement;

Provided, however, that paragraphs (a)(i) and (a)(ii) above do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in 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 into this Registration Statement.

- (b) 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.
 - (c) 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.
2. 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 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference into this 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.
 3. 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 indemnity provisions summarized in Item 6, or otherwise, the Registrant has been advised that in the opinion 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 of 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, 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 Sugar Land, State of Texas on June 26, 2023.

APPLIED OPTOELECTRONICS, INC.

By: /S/ CHIH-HSIANG (THOMPSON) LIN
CHIH-HSIANG (THOMPSON) LIN
President and Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Chih-Hsiang (Thompson) Lin and Dr. Stefan J. Murry, and each of them, 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 other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection therewith, as fully and to all intents and purposes as they might or could not 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, this registration statement has been signed by the following persons in the capacities and on the date indicated.

Signature	Date
<hr/> <p>/S/ CHIH-HSIANG (THOMPSON) LIN CHIH-HSIANG (THOMPSON) LIN, <i>President, Chief Executive Officer and Chairman of the Board of Directors</i> <i>(principal executive officer)</i></p>	June 26, 2023
<hr/> <p>/S/ STEFAN J. MURRY STEFAN J. MURRY, <i>Chief Financial Officer</i> <i>(principal financial officer and principal accounting officer)</i></p>	June 26, 2023
<hr/> <p>/S/ WILLIAM H. YEH WILLIAM H. YEH, <i>Director</i></p>	June 26, 2023
<hr/> <p>/S/ RICHARD B. BLACK RICHARD B. BLACK, <i>Director</i></p>	June 26, 2023
<hr/> <p>/S/ CHE-WEI LIN CHE-WEI LIN, <i>Director</i></p>	June 26, 2023
<hr/> <p>/S/ ELIZABETH LOBOA ELIZABETH LOBOA, <i>Director</i></p>	June 26, 2023
<hr/> <p>/S/ MIN-CHU (MIKE) CHEN MIN-CHU (MIKE) CHEN, <i>Director</i></p>	June 26, 2023
<hr/> <p>/S/ CYNTHIA (CINDY) DELANEY CYNTHIA (CINDY) DeLANEY, <i>Director</i></p>	June 26, 2023



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June 26, 2023

Applied Optoelectronics, Inc.
13139 Jess Pirtle Blvd.
Sugar Land, TX 77478

Re: Registration Statement on Form S-8 of Shares of Common Stock of Applied Optoelectronics, Inc. (the "Company")

Ladies and Gentlemen:

We have acted as counsel to you in connection with the preparation of a Registration Statement on Form S-8 (the "Registration Statement") under the Securities Act of 1933, as amended (the "Act"), which you are filing with the Securities and Exchange Commission with respect to up to 2,800,000 shares of common stock of the Company (the "Shares"), which may be issued pursuant to the Company's 2021 Equity Incentive Plan, as amended (the "Plan").

We have examined the Registration Statement and such documents and records of the Company as we have deemed necessary for the purpose of this opinion. In giving this opinion, we are assuming the authenticity of all instruments presented to us as originals, the conformity with originals of all instruments presented to us as copies and the genuineness of all signatures.

Based upon and subject to the foregoing, we are of the opinion that any Shares issued by the Company pursuant to the Plan, upon registration by its registrar of such Shares and the issuance thereof by the Company in accordance with the terms of the Plan, and the receipt of consideration for such Shares in accordance with the terms of the Plan, will be legally issued, fully paid and nonassessable.

This opinion is limited in all respects to the General Corporation Law of the State of Delaware. We express no opinion as to any other law or any matter other than as expressly set forth above. The opinions expressed herein are rendered as of the date hereof and we expressly disclaim any obligation to update this letter or advise you of any change in any matter after the date hereof.

We hereby consent to the filing of this opinion as an exhibit to the Registration Statement. In giving such consent, we do not admit that we are in the category of persons whose consent is required under Section 7 of the Act.

Very truly yours,

/s/ PERKINS COIE LLP

PERKINS COIE LLP

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We have issued our report dated February 24, 2023 with respect to the consolidated financial statements of Applied Optoelectronics, Inc. included in the Annual Report on Form 10-K for the year ended December 31, 2022, which are incorporated by reference in this Registration Statement. We consent to the incorporation by reference of the aforementioned report in this Registration Statement.

/s/ GRANT THORNTON LLP

Houston, Texas
June 26, 2023

Calculation of Filing Fee Tables

Form S-8
(Form Type)APPLIED OPTOELECTRONICS, INC.
(Exact Name of Registrant as Specified in its Charter)

Table 1: Newly Registered Securities

Security Type	Security Class Title	Fee Calculation Rule	Amount Registered ⁽¹⁾	Proposed Maximum Offering Price Per Unit	Maximum Aggregate Offering Price	Fee Rate	Amount of Registration Fee
Equity	Common Stock	Other	2,800,000 ⁽²⁾	\$ 4.60 ⁽³⁾	\$ 12,880,000	0.00011020	\$ 1,419.38
Total Offering Amounts					\$ 12,880,000		\$ 1,419.38
Total Fee Offsets							\$ —
Net Fee Due							\$ 1,419.38

- (1) Pursuant to Rule 416(a) of the Securities Act of 1933, as amended (the “Securities Act”), this Registration Statement shall also cover any additional shares of Applied Optoelectronics, Inc. (the “Registrant”) common stock, \$0.001 per share (“Common Stock”), that become issuable under the Applied Optoelectronics, Inc. 2021 Equity Incentive Plan (the “2021 Plan”) by reason of any stock dividend, stock split, recapitalization or other similar transaction effected without the Registrant’s receipt of consideration that increases the number of the Registrant’s outstanding shares of Common Stock.
- (2) Represents 2,800,000 additional shares of Common Stock reserved for issuance under the 2021 Plan.
- (3) Estimated in accordance with paragraphs (c) and (h) of Rule 457 under the Securities Act solely for purposes of calculating the registration fee. The price for the Common Stock being registered hereby is based on a price of \$4.60 per share of Common Stock, which is the average of the high (\$5.15) and low (\$4.05) trading prices for a share of Common Stock of the Registrant on June 21, 2023, as reported on the Nasdaq Stock Market.