

BLUE NILE INC  
Form S-8  
March 06, 2009

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As filed with the Securities and Exchange Commission on March 5,  
2009

Registration No. 333-

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

**FORM S-8  
REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933**

**Blue Nile, Inc.**

(Exact name of registrant as specified in its charter)

**Delaware**

(State of Incorporation)

**91-1963165**

(I.R.S. Employer Identification No.)

**705 Fifth Avenue South, Suite 900, Seattle, WA 98104**

(Address of principal executive offices and zip code)

**2004 Equity Incentive Plan**

**2004 Non-Employee Directors Stock Option Plan**

(Full titles of the plans)

**Diane M. Irvine**

**President and Chief Executive Officer**

**Blue Nile, Inc.**

**705 Fifth Avenue South, Suite 900**

**Seattle, WA 98104**

**Tel: (206) 336-6700**

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

Copies to:

John M. Geschke, Esq.

Cooley Godward Kronish LLP

Five Palo Alto Square

3000 El Camino Real

Palo Alto, CA 94306

(650) 843-5000

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. (Check one):

Large accelerated  
filer

Accelerated filer

Non-accelerated filer   
(Do not check if a smaller reporting

Smaller reporting  
company

company)

**CALCULATION OF REGISTRATION FEE**

| Title of Securities<br>to be Registered   | Amount to be<br>Registered(1) | Proposed Maximum<br>Offering<br>Price Per Share(2) | Proposed Maximum<br>Aggregate<br>Offering Price(2) | Amount of<br>Registration Fee |
|---|-------------------------------|--|--|-------------------------------|
| Common Stock, par value \$.001<br>per share, to be issued under the<br>2004 Equity Incentive Plan and<br>the 2004 Non-Employee<br>Directors Stock Option Plan | 774,127 shares                | \$22.69  | \$17,564,941.63                                    | \$690.30                      |

(1) This Registration Statement shall cover any additional shares of common stock which become issuable under the plans set forth herein by reason of any stock dividend, stock split, recapitalization or any other similar transaction without receipt of consideration which results in an increase in the number of shares of the Registrant outstanding common stock.

(2) Estimated solely for the purpose of calculating the amount of the registration fee pursuant to Rule 457(c) and Rule 457(h)(1) under the

Securities Act  
of 1933, as  
amended (the  
Securities Act ).

The offering  
price per share  
and aggregate  
offering price  
are based upon  
the average of  
the high and low  
prices of  
Registrant s  
common stock  
as reported on  
the NASDAQ  
Stock Market  
LLC on  
March 2, 2009,  
for (i) 724,627  
shares reserved  
for future grant  
pursuant to the  
Registrant s  
2004 Equity  
Incentive Plan  
and (ii) 49,500  
shares issuable  
pursuant to the  
Registrant s  
2004  
Non-Employee  
Directors Stock  
Option Plan.

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EXHIBIT 5.1

EXHIBIT 23.1

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**EXPLANATORY NOTE PURSUANT TO  
GENERAL INSTRUCTION E TO FORM S-8**

This Registration Statement on Form S-8 is being filed for the purpose of registering an additional 774,127 shares of the Registrant's common stock to be issued pursuant to the Registrant's 2004 Equity Incentive Plan and 2004 Non-Employee Directors' Stock Option Plan.

**INCORPORATION BY REFERENCE OF CONTENTS OF  
REGISTRATION STATEMENTS ON FORM S-8**

The contents of Registration Statements on Form S-8 previously filed with the Securities and Exchange Commission on May 20, 2004 (File No. 333-115700), April 8, 2005 (File No. 333-123962), March 20, 2006 (File No. 333-132588), March 16, 2007 (File No. 333-141379) and February 28, 2008 (File No. 333-149444) are incorporated by reference herein.

**EXHIBITS**

| <b>Exhibit<br/>Number</b> | <b>Description</b>   |
|---------------------------|--|
| 4.1(1)                    | Amended and Restated Certificate of Incorporation of Blue Nile, Inc.   |
| 4.2(2)                    | Amended and Restated Bylaws of Blue Nile, Inc.   |
| 4.3(3)                    | Amendment to the Bylaws of Blue Nile, Inc.   |
| 4.4(4)                    | Specimen Stock Certificate.  |
| 5.1                       | Opinion of Cooley Godward Kronish llp.   |
| 23.1                      | Consent of Deloitte & Touche llp.  |
| 23.2                      | Consent of Cooley Godward Kronish llp (included in Exhibit 5.1).   |
| 24.1                      | Power of Attorney is contained in the signature pages to this Registration Statement.  |
| 99.1.1(5)                 | Blue Nile, Inc. 2004 Equity Incentive Plan.  |
| 99.1.2(6)                 | Form of Stock Option Agreement pursuant to the Blue Nile, Inc. 2004 Equity Incentive Plan.                                   |
| 99.1.3(7)                 | Form of Stock Grant Notice pursuant to the Blue Nile, Inc. 2004 Equity Incentive Plan.                                       |
| 99.1.4(8)                 | Form of Restricted Stock Unit Grant Notice and Form of Award Agreement under the Blue Nile, Inc. 2004 Equity Incentive Plan. |
| 99.2.1(9)                 | Third Amended and Restated 2004 Non-Employee Directors' Stock Option Plan.   |
| 99.2.2(10)                | Form of Stock Option Agreement pursuant to the Blue Nile, Inc. 2004 Non-Employee Directors' Stock Option Plan.               |

(1) Previously filed as  
Exhibit 3.1 to Blue

Nile, Inc. s  
Quarterly Report  
on Form 10-Q for  
the quarterly  
period ended  
July 4, 2004  
(No. 000-50763),  
as filed with the  
Securities and  
Exchange  
Commission on  
August 6, 2004,  
and incorporated  
by reference  
herein.

- (2) Previously filed as  
Exhibit 3.2 to Blue  
Nile, Inc. s  
Registration  
Statement on  
Form S-1 (No.  
333-113494), as  
filed with the  
Securities and  
Exchange  
Commission on  
March 11, 2004, as  
amended, and  
incorporated by  
reference herein.
- (3) Previously filed as  
Exhibit 3.2 to Blue  
Nile, Inc. s Current  
Report on  
Form 8-K (No.  
000-50763), as  
filed with the  
Securities and  
Exchange  
Commission on  
February 7, 2008,  
and incorporated  
by reference  
herein.
- (4) Previously filed as  
Exhibit 4.2 to Blue  
Nile, Inc. s  
Registration

Statement on Form  
S-1/A  
(No. 333-113494),  
as filed with the  
Securities and  
Exchange  
Commission on  
May 4, 2004, as  
amended, and  
incorporated by  
reference herein.

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- (5) Previously filed as Exhibit 10.4.1 to Blue Nile, Inc. s Registration Statement on Form S-1/A (No. 333-113494), as filed with the Securities and Exchange Commission on April 19, 2004, as amended, and incorporated by reference herein.
  
- (6) Previously filed as Exhibit 10.4.2 to Blue Nile, Inc. s Annual Report on Form 10-K (No. 000-50763), as filed with the Securities and Exchange Commission on March 25, 2005, and incorporated by reference herein.
  
- (7) Previously filed as Exhibit 10.1 to Blue Nile, Inc. s Current Report on Form 8-K (No. 000-50763), as filed with the Securities and Exchange Commission on December 13, 2004 and incorporated by reference herein.
  
- (8) Previously filed as Exhibit 10.4.4 to Blue Nile, Inc. s

Annual Report on Form 10-K (No. 000-50763), as filed with the Securities and Exchange Commission on March 5, 2009, and incorporated by reference herein.

(9) Previously filed as Exhibit 10.1 to Blue Nile, Inc. s Quarterly Report on Form 10-Q (No. 000-50763), as filed with the Securities and Exchange Commission on November 7, 2008 and incorporated by reference herein.

(10) Previously filed as Exhibit 10.2.2 to Blue Nile, Inc. s Annual Report on Form 10-K (No. 000-50763), as filed with the Securities and Exchange Commission on March 25, 2005, and incorporated by reference herein.

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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 Seattle, State of Washington, on March 4, 2009.

**Blue Nile, Inc.**

By: /s/ Marc D. Stolzman  
 Marc D. Stolzman  
 Chief Financial Officer

**POWER OF ATTORNEY**

Each person whose signature appears below constitutes and appoints Diane M. Irvine and Marc D. Stolzman, and each or any one of them, his or her true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for him or her and in his or her 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, and each of them, 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 to all intents and purposes as he or she 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 or her substitutes or substitute, 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.

| <b>Signature</b>                         | <b>Title</b>  | <b>Date</b>   |
|--|---|---------------|
| /s/ Diane M. Irvine<br>Diane M. Irvine   | Chief Executive Officer,<br>President, and Director<br><i>(Principal Executive Officer)</i> | March 3, 2009 |
| /s/ Marc D. Stolzman<br>Marc D. Stolzman | Chief Financial Officer<br><i>(Principal Financial and<br/>Accounting Officer)</i>          | March 4, 2009 |
| /s/ Mark C. Vadon<br>Mark C. Vadon       | Executive Chairman and Director   | March 3, 2009 |
| /s/ W. Eric Carlborg<br>W. Eric Carlborg | Director  | March 2, 2009 |
| /s/ Leslie Lane<br>Leslie Lane           | Director  | March 2, 2009 |

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| <b>Signature</b>                           | <b>Title</b> | <b>Date</b>       |
|--|--------------|-------------------|
| /s/ Ned Mansour<br>Ned Mansour             | Director     | February 26, 2009 |
| /s/ Michael Potter<br>Michael Potter       | Director     | March 2, 2009     |
| /s/ Steve Scheid<br>Steve Scheid           | Director     | March 4, 2009     |
| /s/ Mary Alice Taylor<br>Mary Alice Taylor | Director     | March 4, 2009     |

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- (2) Previously filed as Exhibit 3.2 to Blue Nile, Inc. s Registration Statement on Form S-1 (No. 333-113494), as filed with the Securities and Exchange Commission on March 11, 2004, as amended, and incorporated by reference herein.
- (3) Previously filed as Exhibit 3.2 to Blue Nile, Inc. s Current Report on Form 8-K (No. 000-50763), as filed with the Securities and Exchange Commission on February 7, 2008, and incorporated by reference herein.
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