

JAZZ PHARMACEUTICALS INC  
Form S-8  
March 27, 2009

As filed with the Securities and Exchange Commission on March 27, 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*

**JAZZ PHARMACEUTICALS, INC.**

(Exact name of registrant as specified in its charter)

Delaware  
(State or other jurisdiction of  
incorporation or organization)

05-0563787  
(I.R.S. Employer  
Identification No.)

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**3180 Porter Drive**

**Palo Alto, CA 94304**

**(650) 496-3777**

(Address of principal executive offices)

**2007 Equity Incentive Plan**

**2007 Employee Stock Purchase Plan**

**2007 Non-Employee Directors Stock Option Plan**

(Full titles of the plans)

**Samuel R. Saks, M.D.**

**Chief Executive Officer**

**Jazz Pharmaceuticals, Inc.**

**3180 Porter Drive**

**Palo Alto, CA 94304**

**(650) 496-3777**

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

*Copies to:*

**Suzanne Sawochka Hooper, Esq.  
Chadwick Mills, Esq.  
Cooley Godward Kronish LLP  
Five Palo Alto Square  
3000 El Camino Real  
Palo Alto, CA 94306-2155  
(650) 843-5000**

**Carol A. Gamble, Esq.  
Philip J. Honerkamp, Esq.  
Jazz Pharmaceuticals, Inc.  
3180 Porter Drive  
Palo Alto, CA 94304  
(650) 496-3777**

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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       Accelerated filer       Non-accelerated filer       Smaller reporting company   
 (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
Common Stock, par value \$0.0001 per share	1,730,578 shares	\$0.93 \$1.25	\$1,763,031.78	\$98.38

- (1) Pursuant to Rule 416 promulgated under the Securities Act of 1933, as amended (the Securities Act), this Registration Statement shall also cover any additional shares of the Registrant's Common Stock that become issuable under the plans set forth herein by reason of any stock dividend, stock split, recapitalization or other similar transaction effected without receipt of consideration that increases the number of outstanding shares of the Registrant's Common Stock.
- (2) Estimated solely for the purpose of calculating the amount of the registration fee pursuant to Rule 457(h) and Rule 457(c) promulgated under the Securities Act. The offering price per share and the aggregate offering price are based upon (a) the exercise price of outstanding options granted under the Registrant's 2007 Equity Incentive Plan and (b) the average of the high and low prices of the Registrant's Common Stock as reported on the NASDAQ Global Market on March 25, 2009. The chart below details the calculations of the registration fee:

Securities	Number of Shares	Offering Price Per Share(2)	Aggregate Offering Price(2)
Common Stock, par value \$0.0001 per share, issuable upon the exercise of outstanding options granted under the 2007 Equity Incentive Plan	479,982	\$ 1.25(2)(a)	\$ 599,977.50
Common Stock, par value \$0.0001 per share, reserved for future issuance under the 2007 Equity Incentive Plan	821,648	\$ 0.93(2)(b)	\$ 764,132.64
Common Stock, par value \$0.0001 per share, reserved for future issuance under the 2007 Employee Stock Purchase Plan	350,000	\$ 0.93(2)(b)	\$ 325,500.00
Common Stock, par value \$0.0001 per share, reserved for future issuance under the 2007 Non-Employee Directors Stock Option Plan	78,948	\$ 0.93(2)(b)	\$ 73,421.64
<b>Proposed Maximum Aggregate Offering Price</b>			<b>\$ 1,763,031.78</b>
<b>Registration Fee</b>			<b>\$ 98.38</b>

**EXPLANATORY NOTE**

This Registration Statement on Form S-8 is being filed for the purpose of registering an additional (i) 1,301,630 shares of the Registrant's Common Stock to be issued pursuant to the Registrant's 2007 Equity Incentive Plan, (ii) 350,000 shares of the Registrant's Common Stock to be issued pursuant to the Registrant's 2007 Employee Stock Purchase Plan and (iii) 78,948 shares of the Registrant's Common Stock to be issued pursuant to the Registrant's 2007 Non-Employee Directors Stock Option Plan.

**INCORPORATION BY REFERENCE OF CONTENTS OF REGISTRATION**

**STATEMENTS ON FORM S-8**

The contents of the Registration Statements on Form S-8 (File No. 333-143553 and File No. 333-150008) are incorporated by reference herein.

**EXHIBITS**

<b>Exhibit Number</b>	<b>Exhibit Title</b>
3.1 <sup>(1)</sup>	Fourth Amended and Restated Certificate of Incorporation of the Registrant.
3.2 <sup>(2)</sup>	Amended and Restated Bylaws.
4.1	Reference is made to Exhibits 3.1 and 3.2.
4.2 <sup>(3)</sup>	Specimen Common Stock Certificate.
4.3A <sup>(4)</sup>	Third Amended and Restated Investor Rights Agreement, made effective as of June 6, 2007, by and between the Registrant and the other parties named therein.
4.3B <sup>(5)</sup>	Waiver and Amendment Agreement, dated as of March 12, 2008, by and between the Registrant and the other parties named therein.
4.3C <sup>(6)</sup>	Waiver and Amendment Agreement, dated as of May 7, 2008, by and between the Registrant and the other parties named therein.
4.4A <sup>(7)</sup>	Form of Series BB Preferred Stock Warrant of the Registrant.
4.4B <sup>(8)</sup>	Form of Series BB Preferred Stock Warrant of the Registrant, as amended.
4.5A <sup>(9)</sup>	Senior Secured Note and Warrant Purchase Agreement, dated as of March 14, 2008, by and among the Registrant, JPI Commercial, LLC and the Purchasers named therein.
4.5B <sup>(10)</sup>	Form of Senior Secured Tranche A Note of JPI Commercial, LLC.
4.5C <sup>(11)</sup>	Form of Senior Secured Tranche B Note of JPI Commercial, LLC.
4.5D <sup>(12)</sup>	Form of Common Stock Warrant of the Registrant.
4.5E <sup>(13)</sup>	Registration Rights Agreement, dated as of March 17, 2008, by and between the Registrant and the other parties named therein.
4.6A <sup>(14)</sup>	Warrant issued to Kingsbridge Capital Limited, dated May 7, 2008.
4.6B <sup>(15)</sup>	Registration Rights Agreement, dated as of May 7, 2008, by and between the Registrant and Kingsbridge Capital Limited.
4.7 <sup>(16)</sup>	Form of Registered Direct Common Warrant.
5.1	Opinion of Registrant's General Counsel.
23.1	Consent of Independent Registered Public Accounting Firm.
23.2	Consent of Registrant's General Counsel. Reference is made to Exhibit 5.1.
24.1	Power of Attorney. Reference is made to the signature page of this Form S-8.
99.1 <sup>(17)</sup>	2007 Equity Incentive Plan.



<b>Exhibit Number</b>	<b>Exhibit Title</b>
99.2 <sup>(18)</sup>	2007 Employee Stock Purchase Plan.
99.3 <sup>(19)</sup>	2007 Non-Employee Directors Stock Option Plan.

Confidential treatment has been granted for portions of this exhibit. Omitted portions have been filed separately with the Securities and Exchange Commission.

- (1) Previously filed as Exhibit 3.1 to the Registrant's Quarterly Report on Form 10-Q (File No. 001-33500) for the period ended June 30, 2007, as filed with the Commission on August 10, 2007, and incorporated by reference herein.
- (2) Previously filed as Exhibit 3.4 to the Registrant's Registration Statement on Form S-1, as amended (File No. 333-141164), as filed with the Commission on May 17, 2007, and incorporated by reference herein.
- (3) Previously filed as Exhibit 4.2 to the Registrant's Registration Statement on Form S-1, as amended (File No. 333-141164), as filed with the Commission on May 17, 2007, and incorporated by reference herein.
- (4) Previously filed as Exhibit 4.3 to the Registrant's Quarterly Report on Form 10-Q (File No. 001-33500) for the period ended June 30, 2007, as filed with the Commission on August 10, 2007, and incorporated by reference herein.
- (5) Previously filed as Exhibit 4.3B to the Registrant's Annual Report on Form 10-K (File No. 001-33500) for the period ended December 31, 2007, as filed with the Commission on March 31, 2008, and incorporated by reference herein.
- (6) Previously filed as Exhibit 4.3C to the Registrant's Current Report on Form 8-K (File No. 001-33500), as filed with the Commission on May 9, 2008, and incorporated herein by reference.
- (7) Previously filed as Exhibit 4.6 to the Registrant's Registration Statement on Form S-1, as amended (File No. 333-141164), as filed with the Commission on March 9, 2007, and incorporated by reference herein.
- (8) Previously filed as Exhibit 4.4B to the Registrant's Annual Report on Form 10-K (File No. 001-33500) for the period ended December 31, 2007, as filed with the Commission on March 31, 2008, and incorporated herein by reference.
- (9) Previously filed as Exhibit 4.5A to the Registrant's Annual Report on Form 10-K (File No. 001-33500) for the period ended December 31, 2007, as filed with the Commission on March 31, 2008, and incorporated herein by reference.
- (10) Previously filed as Exhibit 4.5B to the Registrant's Annual Report on Form 10-K (File No. 001-33500) for the period ended December 31, 2007, as filed with the Commission on March 31, 2008, and incorporated herein by reference.
- (11) Previously filed as Exhibit 4.5C to the Registrant's Annual Report on Form 10-K (File No. 001-33500) for the period ended December 31, 2007, as filed with the Commission on March 31, 2008, and incorporated herein by reference.

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- <sup>(12)</sup> Previously filed as Exhibit 4.5D to the Registrant's Annual Report on Form 10-K (File No. 001-33500) for the period ended December 31, 2007, as filed with the Commission on March 31, 2008, and incorporated herein by reference.
- <sup>(13)</sup> Previously filed as Exhibit 4.5E to the Registrant's Annual Report on Form 10-K (File No. 001-33500) for the period ended December 31, 2007, as filed with the Commission on March 31, 2008, and incorporated herein by reference.
- <sup>(14)</sup> Previously filed as Exhibit 4.6A to the Registrant's Current Report on Form 8-K (File No. 001-33500), as filed with the Commission on May 9, 2008, and incorporated herein by reference.
- <sup>(15)</sup> Previously filed as Exhibit 4.6B to the Registrant's Current Report on Form 8-K (File No. 001-33500), as filed with the Commission on May 9, 2008, and incorporated herein by reference.
- <sup>(16)</sup> Previously filed as Exhibit 4.7 to the Registrant's Current Report on Form 8-K (File No. 001-33500), as filed with the Commission on July 16, 2008, and incorporated herein by reference.
- <sup>(17)</sup> Previously filed as Exhibit 10.23 to the Registrant's Registration Statement on Form S-1, as amended (File No. 333-141164), as filed with the Commission on May 17, 2007, and incorporated by reference herein.
- <sup>(18)</sup> Previously filed as Exhibit 10.27 to the Registrant's Registration Statement on Form S-1, as amended (File No. 333-141164), as filed with the Commission on May 17, 2007, and incorporated by reference herein.
- <sup>(19)</sup> Previously filed as Exhibit 10.25 to the Registrant's Registration Statement on Form S-1, as amended (File No. 333-141164), as filed with the Commission on May 17, 2007, and incorporated by reference herein.

**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 Palo Alto, State of California, on March 27, 2009.

**JAZZ PHARMACEUTICALS, INC.**

By: /s/ Samuel R. Saks, M.D.  
Samuel R. Saks, M.D.

*Chief Executive Officer*

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**POWER OF ATTORNEY**

**KNOW ALL PERSONS BY THESE PRESENTS**, that each person whose signature appears below constitutes and appoints **BRUCE C. COZADD, SAMUEL R. SAKS, M.D.** and **CAROL A. GAMBLE**, and each or any one of them, his true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, 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 on Form S-8, 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 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, as amended, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
/s/ SAMUEL R. SAKS, M.D.  <b>Samuel R. Saks, M.D.</b>	Chief Executive Officer and Director  <i>(Principal Executive Officer)</i>	March 27, 2009
/s/ JOAN E. COLLIGAN  <b>Joan E. Colligan</b>	Controller  <i>(Principal Accounting Officer and Acting Principal Financial Officer)</i>	March 27, 2009
/s/ E. ALEXANDER ALBERT  <b>E. Alexander Albert</b>	Director	March 27, 2009
/s/ SAMUEL D. COLELLA  <b>Samuel D. Colella</b>	Director	March 27, 2009
/s/ BRUCE C. COZADD  <b>Bruce C. Cozadd</b>	Director	March 27, 2009
/s/ BRYAN C. CRESSEY  <b>Bryan C. Cressey</b>	Director	March 27, 2009
/s/ MICHAEL W. MICHELSON  <b>Michael W. Michelson</b>	Director	March 27, 2009
/s/ JAMES C. MOMTAZEE  <b>James C. Momtazee</b>	Director	March 27, 2009
/s/ KENNETH W. O KEEFE  <b>Kenneth W. O Keefe</b>	Director	March 27, 2009
/s/ ALAN M. SEBULSKY	Director	March 27, 2009

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**Alan M. Sebulsky**

/s/ JAMES B. TANANBAUM, M.D.

Director

March 27, 2009

**James B. Tananbaum, M.D.**

/s/ NATHANIEL M. ZILKHA

Director

March 27, 2009

**Nathaniel M. Zilkha**

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