

BROADCASTER INC  
Form S-8  
November 13, 2008

**AS FILED WITH THE SECURITIES AND EXCHANGE COMMISSION ON NOVEMBER 12, 2008**

**REGISTRATION NO. 333-\_\_\_\_\_**

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**  
**WASHINGTON, DC 20549**

**FORM S-8**

**REGISTRATION STATEMENT UNDER**

**THE SECURITIES ACT OF 1933**

**BROADCASTER, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction of  
incorporation or organization)

**94-2862863**  
(I.R.S. Employer No.)  
Identification Number)

**9201 Oakdale Avenue, Suite 200**

**Chatsworth, CA 91311**

**(818) 206-9274**

(Address, including ZIP code, and telephone number, including  
area code, of registrant's principal executive office)

**2008 Long Term Incentive Plan**

(Full title of the Plan)

**MARTIN WADE, III  
CHIEF EXECUTIVE OFFICER  
BROADCASTER, INC.  
9201 OAKDALE AVENUE, SUITE 200  
CHATSWORTH, CA 91311  
(818) 206-9274**

(Name, address and telephone number of agent of services)

*WITH COPIES TO:*

**HANK GRACIN, ESQ.  
LEHMAN & EILEN LLP  
20283 State Road 7, Suite 300  
Boca Raton, FL 33498  
(561) 237-0804**

(Name, address and telephone number)

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 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  Smaller reporting company

**CALCULATION OF REGISTRATION FEE**

<b>TITLE OF SECURITIES BEING REGISTERED</b>	<b>AMOUNT TO BE REGISTERED (1)</b>	<b>PROPOSED MAXIMUM OFFERING PRICE PER SHARE (2)</b>	<b>PROPOSED AGGREGATE OFFERING PRICE</b>	<b>AMOUNT OF REGISTRATION FEE (3)</b>
Common Stock, par value \$0.001 per share under 2008 Long Term Incentive Plan	10,000,000	\$0.06	\$600,000	\$23.58

(1)

Represents shares issuable upon issuance of awards which include options granted or available for grant under the 2008 Long Term Incentive Plan of the Registrant. Each option entitles the holder thereof to purchase one share of the Registrant's common stock. Pursuant to Rule 416, the amount registered hereby covers an additional number of shares of the Registrant's common stock that may become issuable pursuant to the anti-dilution provisions of the plan.

(2)

Estimated solely for the purpose of computing the registration fee pursuant to Rule 457(c) and (h) under the Securities Act of 1933, on the basis of the average of the high and low prices of the Registrant's common stock as reported on the NASDAQ OTC Bulletin Board on November 10, 2008.

(3)

Calculated under Section 6(b) of the Securities Act of 1933 as .0000393 of the aggregate offering price.

**EXPLANATORY NOTE**

Broadcaster, Inc. (the Registrant or the Company ) hereby files this Registration Statement on Form S-8 relating to its common stock, par value \$0.001 per share (the Common Stock ), which have been reserved for issuance and are issuable pursuant to the Company s 2008 Long Term Incentive Plan (hereinafter referred to as the Plan ).

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**PART I**

**INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS**

The information specified in Item 1 and Item 2 of Part I of this Registration Statement on Form S-8 (the Registration Statement ) is omitted from this filing in accordance with the provisions of Rule 428 under the Securities Act of 1933, as amended (the Securities Act ), and the introductory note to Part I of Form S-8. The documents containing the information specified in Part I will be delivered to the participants in the Plan as required by Rule 428(b)(1). Such documents and the documents incorporated by reference in this Registration Statement pursuant to Item 3 of Part II of this Registration Statement, taken together, constitute a prospectus that meets the requirements of Section 10(a) of the Securities Act.

**PART II**

**INFORMATION REQUIRED IN THE REGISTRATION STATEMENT**

**ITEM 3.**

**INCORPORATION OF DOCUMENTS BY REFERENCE**

The following documents are incorporated by reference in this registration statement:

(a) Registrant's Annual Report on Form 10-K for the fiscal year ended June 30, 2008, filed pursuant to Section 13(a) of the Securities Exchange Act of 1934, as amended.

(b) The description of Registrant's common stock contained in the Registrant's Registration Statement on Form SB-2 (Registration No. 333-138647), as amended, filed with the Commission on November 13, 2006.

All documents filed by the Registrant pursuant to Sections 13(a),13(c), 14 and 15(d) of the Securities Exchange Act of 1934 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 offered hereunder have been sold, or which deregisters all securities then remaining unsold under this registration statement, 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.

**ITEM 4.**

**DESCRIPTION OF SECURITIES**

Not applicable.

**ITEM 5.**

**INTERESTS OF NAMED EXPERTS AND COUNSEL**

Not applicable.

**ITEM 6.**

**INDEMNIFICATION OF DIRECTORS AND OFFICERS**

**Indemnification.** Our Certificate of Incorporation and Section 145 of the General Corporation Law of the State of Delaware allow, and in some cases require, the indemnification of directors and officers to the fullest extent permitted by law for all expenses relating to civil, criminal, administrative or investigative procedures to which they are a party (i) by reason of the fact that they are or were directors or officers of Broadcaster or (ii) by reason of the fact that, while they are or were directors or officers of Broadcaster, they are or were serving at the request of Broadcaster as a director, officer or employee of another enterprise. The effect of these provisions is to eliminate the personal liability of directors and officers of Broadcaster to Broadcaster and its stockholders for monetary actions.

**SEC Position on Securities Act Liabilities.** Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers or persons controlling us pursuant to the foregoing provisions, or otherwise, we have been advised that in the opinion of the Securities and Exchange Commission or SEC, such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable.

**ITEM 7.**

**EXEMPTION FROM REGISTRATION CLAIMED**

Not applicable.

**ITEM 8.**

**EXHIBITS**

<b>Exhibit No.</b>	<b>Description of Document</b>
<u>4.1</u>	Registrant s 2008 Long Term Incentive Plan
<u>5.1</u>	Opinion of counsel re: legality of securities being registered
<u>23.1</u>	Consent of Choi, Kim & Park LLP
23.2	Consent of counsel (included as Exhibit 5.1)

**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 of 1933, as amended;

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;

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 the registration statement;

Provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed by the Registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in this 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 bona fide offering thereof.

3.

To remove from registration by means of a post-effective amendment any of the securities being registered that remain unsold at the termination of the offering.

i.

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 Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) 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.

ii.

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the Registrant, 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 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 act and will be governed by the final adjudication of such issue.

**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 Los Angeles County, State of California, on the 12<sup>th</sup> day of November, 2008.

**BROADCASTER, INC.**

By: /s/ MARTIN WADE, III  
Name: Martin Wade, III  
Title: Chief Executive Officer  
(Principal Executive Officer)

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.

/s/ Martin Wade Martin Wade, III	Chairman, Chief Executive Officer (Principal Executive Officer)	November 12, 2008
/s/ Blair Mills Blair Mills	Director, Chief Financial Officer (Principal Financial Officer)	November 12, 2008
/s/ Richard Berman Richard Berman	Director	November 12, 2008
/s/ Arthur Camiolo Arthur Camiolo	Director	November 12, 2008
/s/ Lawrence Johnson Lawrence Johnson	Director	November 12, 2008

**EXHIBIT INDEX**

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23.2	Consent of counsel (included as Exhibit 5.1) <sup>(1)</sup>

(1)

Filed herewith.