

INPHI Corp
Form S-8
February 28, 2019

As filed with the Securities and Exchange Commission on February 28, 2019

Registration No. 333-_____

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-8

REGISTRATION STATEMENT

Under

THE SECURITIES ACT OF 1933

INPHI CORPORATION

(Exact name of registrant as specified in its charter)

Delaware	77-0557980
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
2953 Bunker Hill Lane, Suite 300	95054
Santa Clara, CA	(Zip Code)
(Address of principal executive offices)	

Inphi Corporation 2010 Stock Incentive Plan

(as amended and restated on July 19, 2017)

(Full title of the plan)

Ford Tamer
President and Chief Executive Officer
Inphi Corporation
2953 Bunker Hill Lane, Suite 300
Santa Clara, CA 95054
(408) 217-7300

Allison Leopold Tilley, Esq.
Pillsbury Winthrop Shaw Pittman LLP
2550 Hanover Street
Palo Alto, CA 94304
(650) 233-4500

(Name,
address
and
telephone
number of
agent for
service)

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 definitions of “large accelerated filer,” “accelerated filer,” “small reporting company” and “emerging growth company” in Rule 12b-2 of the Exchange Act.

Large accelerated filer Accelerated filer
Non-accelerated filer Smaller reporting company
 Emerging growth company

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.

CALCULATION OF REGISTRATION FEE

Title of Securities	Amount To	Proposed	Proposed	Amount of
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To Be Registered ⁽¹⁾	Be Registered ⁽²⁾	Maximum Offering	Maximum Aggregate	Registration Fee
		Price Per Share ⁽³⁾	Offering Price	
Common Stock, \$0.001 par value per share	2,214,636	\$42.58	\$94,299,201	\$11,430

(1) The securities to be registered include options and rights to acquire Common Stock.

(2) Pursuant to Rule 416, this registration statement also covers any additional securities that may be offered or issued in connection with any stock split, stock dividend, recapitalization or any other similar transaction effected without receipt of consideration, which results in an increase in the number of the Registrant's outstanding shares of Common Stock.

(3) Estimated pursuant to Rules 457(h) and 457(c) under the Securities Act of 1933, as amended (the "Securities Act"), solely for the purposes of calculating the registration fee, based on the average of the high and low prices of the Common Stock as reported on the New York Stock Exchange on February 21, 2019.

The Registration Statement shall become effective upon filing in accordance with Rule 462 under the Securities Act.

PART I

INFORMATION REQUIRED IN THE PROSPECTUS

General Instruction E Information

This Registration Statement is being filed for the purpose of increasing the number of securities of the same class as other securities for which a Registration Statement of the Registrant on Form S-8 relating to the same employee benefit plan is effective.

The Registrant's Registration Statements on Form S-8 filed with the Securities and Exchange Commission (the "Commission") on February 28, 2018 (File No. 333-223313), March 1, 2017 (File No. 333-216363), February 29, 2016 (File No. 333-209832), May 6, 2015 (File No. 333-203906), March 5, 2014 (File No. 333-194339), March 7, 2013 (File No. 333-187108), January 31, 2012 (File No. 333-179270) and November 16, 2010 (File No. 333-170629), excluding reports that the Registrant filed with the Commission that were incorporated into the Registration Statements on Form S-8 in order to maintain current information about the Registrant, are hereby incorporated by reference into this Registration Statement pursuant to General Instruction E of Form S-8.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference

The following documents and information previously filed with the SEC by the Registrant are incorporated by reference herein:

- (a) Registrant's Annual Report on Form 10-K for the fiscal year ended December 31, 2018; and

The description of Registrant's Capital Stock contained in the Registrant's registration statement on Form 8-A (File No. 001-34942), filed on October 29, 2010 pursuant to Section 12(b) of the Securities Exchange Act of (b) 1934, as amended (the "Exchange Act"), including any amendment or report filed for the purpose of updating such description.

In addition, all documents filed by Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act (excluding any portions thereof furnished by the Registrant, including but not limited to information furnished under Item 2.02 and Item 7.01 and any exhibits relating to Item 2.02 or Item 7.01 furnished under Item 9.01 of Form 8-K and any certification required by 18 U.S.C. § 1350), on or after the date of this Registration Statement, prior to the filing of a post-effective amendment which indicates that all securities offered have been sold or which deregisters 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.

Any statement contained in this Registration Statement or in a document incorporated by reference in this Registration Statement shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained in this Registration Statement or in any subsequently filed document that is deemed to be incorporated by reference in this Registration Statement modifies or supersedes such statement.

Item 8. Exhibits

Exhibit No.	Description
5.1	<u>Opinion of Pillsbury Winthrop Shaw Pittman LLP.</u>
23.1	<u>Consent of PricewaterhouseCoopers LLP, independent registered public accounting firm.</u>
23.2	<u>Consent of Pillsbury Winthrop Shaw Pittman LLP (included in Exhibit 5.1).</u>
24.1	<u>Power of Attorney (contained on the signature page hereto).</u>
99.1	<u>Amended and Restated Inphi Corporation 2010 Stock Incentive Plan dated July 19, 2017 (incorporated by reference to Exhibit 10.1 to the Registrant's Quarterly Report on Form 10-Q for the three months ended June 30, 2017).</u>

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;

(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 in the Registration Statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective 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;

(A) *provided, however*, that paragraphs (a)(1)(i) and (a)(1)(ii) of this section shall 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 in the Registration Statement.

(2) 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.

(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, 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 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.

(h) 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 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.

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 Santa Clara, State of California, on the 28th day of February, 2019.

INPHI CORPORATION

By /s/ Ford Tamer
Ford Tamer
President and Chief Executive
Officer

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Ford Tamer and John Edmunds and each of them, his or her true and lawful attorneys-in-fact and agents, each 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, to this Registration Statement on Form S-8, and to file the same, with 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, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that each of said attorneys-in-fact and agents, or his or her 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 below by the following persons in the capacities and on the dates indicated.

<u>Name</u>	<u>Title</u>	<u>Date</u>
/s/ Ford Tamer Ford Tamer	Chief Executive Officer, President and Director (Principal Executive Officer)	February 28, 2019
/s/ John Edmunds John Edmunds	Chief Financial Officer (Principal Financial and Accounting Officer)	February 28, 2019

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/s/ Diosdado P. Banatao Diosdado P. Banatao	Chairman of the Board	February 28, 2019
/s/ Nicholas Brathwaite Nicholas Brathwaite	Director	February 28, 2019
/s/ Chenming C. Hu Chenming C. Hu	Director	February 28, 2019
/s/ David Liddle David Liddle	Director	February 28, 2019
/s/ Bruce McWilliams Bruce McWilliams	Director	February 28, 2019
/s/ Elissa Murphy Elissa Murphy	Director	February 28, 2019
/s/ William J. Ruehle William J. Ruehle	Director	February 28, 2019
/s/ Sam S. Srinivasan Sam S. Srinivasan	Lead Director	February 28, 2019