

AFFYMAX INC  
Form S-8  
March 18, 2008

As filed with the Securities and Exchange Commission on March 17, 2008

Registration No. 333-

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

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**FORM S-8**

**REGISTRATION STATEMENT**

**UNDER**

**THE SECURITIES ACT OF 1933**

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**AFFYMAX, INC.**

(Exact name of registrant as specified in its charter)

**Delaware**  
(State of Incorporation)

**77-0579396**  
(I.R.S. Employer Identification No.)

**Affymax, Inc.**

**4001 Miranda Avenue**

**Palo Alto, CA 94304**

**(650) 812-8700**

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(Address of principal executive offices)

**2006 Equity Incentive Plan**

**2006 Employee Stock Purchase Plan**

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(Full title of the plans)

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Arlene M. Morris

President and Chief Executive Officer

4001 Miranda Avenue

Palo Alto, CA 94304

(650) 812-8700

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

Copies to:

Robert L. Jones, Esq.

Glen Y. Sato, Esq.

Cooley Godward Kronish LLP

Five Palo Alto Square

3000 El Camino Real

Palo Alto, CA 94306-2155

(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  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	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
Common Stock, par value \$0.001 per share	680,803 shares(2)	\$16.33(4)	\$11,117,513	\$437
Common Stock, par value \$0.001 per share	75,644 shares(3)	\$16.33(4)	\$1,235,267	\$49
<b>Total</b>	<b>756,447</b>	<b>N/A</b>	<b>\$12,352,780</b>	<b>\$486</b>

(1) Pursuant to Rule 416(a), this Registration Statement shall also cover any additional shares of Registrant's Common Stock that become issuable under the plan 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 Registrant's Common Stock.

(2) Represents shares of Common Stock reserved for future issuance under the Affymax, Inc. 2006 Equity Incentive Plan.

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- (3) Represents shares of Common Stock reserved for future issuance under the Affymax, Inc. 2006 Employee Stock Purchase Plan.
- (4) Estimated solely for the purpose of calculating the amount of the registration fee pursuant to Rule 457(h) of the Securities Act. The proposed maximum aggregate offering price per share and proposed maximum aggregate offering price are calculated using the average of the high and low prices of Registrant's Common Stock as reported on the Nasdaq Global Market on March 14, 2008.
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**PART II**

**EXPLANATORY NOTE**

This Registration Statement on Form S-8 is being filed for the purpose of registering an additional 680,803 and 75,644 shares of the Registrant's common stock to be issued pursuant to the Registrant's 2006 Equity Incentive Plan and 2006 Employee Stock Purchase Plan, respectively.

**INCORPORATION OF CERTAIN DOCUMENTS BY REFERENCE**

The contents of the earlier registration statement relating to the 2006 Equity Incentive Plan and 2006 Employee Stock Purchase plan, previously filed with the Securities and Exchange Commission on January 5, 2007 (File No. 333-139810) are incorporated herein by reference and made a part hereof.

**ITEM 8. EXHIBITS**

**Exhibit  
Number**

- 4.1(1) Amended and Restated Certificate of Incorporation
- 4.2(2) Amended and Restated Bylaws
- 4.3(1) Specimen Common Stock Certificate
- 4.4(1) Warrant to purchase shares of Common Stock
- 4.5(1) Amended and Restated Investor Rights Agreement, dated September 7, 2006, by and between the Registrant and certain of its stockholders
- 5.1 Opinion of Cooley Godward Kronish LLP
- 23.1 Consent of Independent Registered Public Accounting Firm
- 23.2 Consent of Cooley Godward Kronish LLP. (Included in Exhibit 5.1 to this Registration Statement.)
- 24.1 Power of Attorney. (Included in the signature pages.)
- 99.2(3) 2006 Equity Incentive Plan
- 99.3(3) 2006 Employee Stock Purchase Plan

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(1) Previously filed as an exhibit to the Registrant's Registration on Form S-1 (333-136125), declared effective by the Securities and Exchange Commission on December 14, 2006, and incorporated by reference herein.

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(2) Previously filed as an exhibit to the Registrant's Form 8-K (001-33213), as filed with the Securities and Exchange Commission on September 10, 2007, and incorporated by reference herein.

(3) Previously filed as an exhibit to the Registrant's Registration Statement on Form S-8 (333-139810), originally filed with the Commission on January 5, 2007, and incorporated by reference herein.

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**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 17, 2008.

**AFFYMAX, INC.**

By: */s/ Arlene M. Morris*  
Arlene M. Morris  
*President and Chief Executive Officer*

**POWER OF ATTORNEY**

**KNOW ALL PERSONS BY THESE PRESENTS**, that each person whose signature appears below constitutes and appoints **ARLENE M. MORRIS** and **PAUL B. CLEVELAND**, 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 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.

<b>Signature</b>	<b>Title</b>	<b>Date</b>
<i>/s/ Arlene M. Morris</i>	President, Chief Executive Officer and	March 17, 2008
Arlene M. Morris	Member of the Board of Directors <i>(Principal Executive Officer)</i>	
<i>/s/ Paul B. Cleveland</i>	Executive Vice President, Corporate	March 17, 2008
Paul B. Cleveland	Development and Chief Financial Officer <i>(Principal Financial Officer)</i>	
<i>/s/ Steven Love</i>	Vice President, Finance <i>(Principal</i>	March 17, 2008
Steven Love	<i>Accounting Officer)</i>	
<i>/s/ John P. Walker</i>	Member of the Board of Directors	March 17, 2008
John P. Walker		

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/s/ Nicholas G. Galakatos, Ph.D.	Member of the Board of Directors	March 17, 2008
Nicholas G. Galakatos, Ph.D.		
/s/ Kathleen LaPorte	Member of the Board of Directors	March 17, 2008
Kathleen LaPorte		

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Signature	Title	Date
/s/ Keith Leonard	Member of the Board of Directors	March 17, 2008
Keith Leonard		
/s/ R. Lee Douglas	Member of the Board of Directors	March 17, 2008
R. Lee Douglas		
/s/ Ted W. Love	Member of the Board of Directors	March 17, 2008
Ted W. Love		
/s/ Daniel K. Spiegelman	Member of the Board of Directors	March 17, 2008
Daniel K. Spiegelman		
/s/ Christi van Heek	Member of the Board of Directors	March 17, 2008
Christi van Heek		



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