

RED HAT INC  
Form S-8  
October 10, 2006

As filed with the Securities and Exchange Commission on October 10, 2006

Registration No. 333-\_\_\_\_\_

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**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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**Red Hat, Inc.**

(Exact Name of Registrant as Specified in Its Charter)

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**Delaware**  
(State or Other Jurisdiction of

Incorporation or Organization)

**1801 Varsity Drive, Raleigh, North Carolina**  
(Address of Principal Executive Offices)

**Amended and Restated**

**2004 Long-Term Incentive Plan**

(Full Title of the Plan)

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**06-1364380**  
(I.R.S. Employer

Identification No.)

**27606**  
(Zip Code)

**MICHAEL R. CUNNINGHAM, ESQ.**

**General Counsel**

**Red Hat, Inc.**

**1801 Varsity Drive**

**Raleigh, North Carolina 27606**

**(Name and Address of Agent For Service)**

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**(919) 754-3700**

**(Telephone Number, Including Area Code, of Agent For Service)**

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**CALCULATION OF REGISTRATION FEE**

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<b>Title of Securities to be Registered</b>	<b>Amount to be Registered(1)</b>	<b>Proposed Maximum Offering Price Per Share</b>	<b>Proposed Maximum Aggregate Offering Price</b>	<b>Amount of Registration Fee</b>
Common Stock, \$0.0001 par value per share	8,000,000 shares (2)	\$ 20.83(3)	\$ 166,640,000(3)	\$ 17,830

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- (1) In accordance with Rule 416 under the Securities Act of 1933, as amended, this registration statement shall be deemed to cover any additional securities that may from time to time be offered or issued to prevent dilution resulting from stock splits, stock dividends or similar transactions.
  - (2) Consists of 8,000,000 shares issuable under the Amended and Restated 2004 Long-Term Incentive Plan.
  - (3) Estimated solely for the purpose of calculating the registration fee pursuant to Rules 457(c) and 457(h) of the Securities Act of 1933, as amended, and based upon the average of the high and low prices of the Registrant's Common Stock as reported on the Nasdaq National Market on October 3, 2006.
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**STATEMENT OF INCORPORATION BY REFERENCE**

Except as otherwise set forth below, this registration statement on Form S-8 incorporates by reference the contents of the registration statement on Form S-8, File No. 333-121507.

**Item 8. Exhibits**

The Exhibit Index immediately preceding the exhibits is incorporated by reference.

**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 Raleigh, North Carolina on this 10th day of October, 2006.

RED HAT, INC.

By: /s/ Charles E. Peters, Jr.  
 Charles E. Peters, Jr.  
 Executive Vice President and Chief Financial  
 Officer

**POWER OF ATTORNEY AND SIGNATURES**

We, the undersigned officers and directors of Red Hat, Inc., hereby severally constitute and appoint Charles E. Peters, Jr. and Michael R. Cunningham and each of them singly, our true and lawful attorneys with full power to them, and each of them singly, to sign for us and in our names in the capacities indicated below, the registration statement on Form S-8 filed herewith and any and all subsequent amendments to said registration statement, and generally to do all such things in our names and on our behalf in our capacities as officers and directors to enable Red Hat, Inc. to comply with the provisions of the Securities Act of 1933, as amended, and all requirements of the Securities and Exchange Commission, hereby ratifying and confirming our signatures as they may be signed by our said attorneys, or any of them, to said registration statement and any and all amendments thereto.

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 dates indicated.

<b>Signature</b>	<b>Title</b>	<b>Date</b>
/s/ Matthew J. Szulik	Chief Executive Officer, President and Chairman of the Board of Directors	October 10, 2006
Matthew J. Szulik	(Principal executive officer)	
/s/ Charles E. Peters, Jr.	Executive Vice President and	October 10, 2006
Charles E. Peters, Jr.	Chief Financial Officer	
	(Principal financial officer)	
/s/ Gabriela Gonzalez	Controller	October 10, 2006
Gabriela Gonzalez	(Principal accounting officer)	
/s/ W. Steve Albrecht	Director	October 9, 2006
W. Steve Albrecht		

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/s/ Marye Anne Fox, Ph.D.	Director	October 3, 2006
Marye Anne Fox, Ph.D.		
/s/ Narendra Gupta	Director	October 2, 2006
Narendra Gupta		
/s/ William S. Kaiser	Director	October 3, 2006
William S. Kaiser		
/s/ Eugene McDonald	Director	October 3, 2006
Eugene McDonald		
/s/ Henry Hugh Shelton	Director	October 3, 2006
Henry Hugh Shelton		

**INDEX TO EXHIBITS**

<b>Number</b>	<b>Description</b>
4.1	Third Amended and Restated Certificate of Incorporation of the Registrant (incorporated by reference to Exhibit 4.1 to the Registrant's Registration Statement on Form S-3 filed with the Securities and Exchange Commission on June 23, 2006 (File No. 333-135323))
4.2	Amended and Restated By-Laws of the Registrant (incorporated by reference to Exhibit 3.2 to the Registrant's Registration Statement on Form S-1 filed with the Securities and Exchange Commission on January 14, 2000 (File No. 333-94775))
5.1	Opinion of Wilmer Cutler Pickering Hale and Dorr LLP, counsel to the Registrant
23.1	Consent of Wilmer Cutler Pickering Hale and Dorr LLP  (included in Exhibit 5.1)
23.2	Consent of PricewaterhouseCoopers, LLP
24	Power of attorney (included on the signature pages of this registration statement)