

TERCICA INC  
Form S-8  
February 29, 2008

As filed with the Securities and Exchange Commission on February 29, 2008

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

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

**FORM S-8**  
**REGISTRATION STATEMENT**  
*UNDER*  
*THE SECURITIES ACT OF 1933*

**TERCICA, INC.**

(Exact name of Registrant as specified in its charter)

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

**26-0042539**  
(I.R.S. Employer  
Identification No.)

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2000 Sierra Point Parkway, Suite 400

Brisbane, CA 94005

(650) 624-4900

(Address of principal executive offices, including zip code)

2004 Stock Plan

2004 Employee Stock Purchase Plan

(Full titles of the plans)

John A. Scarlett, M.D.

Chief Executive Officer

Tercica, Inc.

2000 Sierra Point Parkway, Suite 400

Brisbane, CA 94005

(650) 624-4900

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

*Copies to:*

Suzanne Sawochka Hooper, Esq.

Cooley Godward Kronish LLP

Five Palo Alto Square

3000 El Camino Real

Palo Alto, CA 94306-2155

(650) 843-5000

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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 definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act:

Large accelerated filer

Non-accelerated filer

(Do not check if a smaller reporting company)

Accelerated filer

Smaller reporting company

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**CALCULATION OF REGISTRATION FEE**

Title of Securities to be Registered (1)	Amount to be Registered (2)	Proposed Maximum	Proposed Maximum	Amount of Registration Fee
		Offering Price Per Share (3)	Aggregate Offering Price (3)	
Common Stock, par value \$0.001 per share	1,375,000 shares	\$6.49	\$8,923,750.00	\$350.70

- (1) Includes associated rights to purchase shares of the Registrant's Series A Junior Participating Preferred Stock, par value \$0.001 per share ( Preferred Share Purchase Rights ). Preferred Share Purchase Rights are attached to shares of the Registrant's Common Stock in accordance with the rights agreement, dated as of October 13, 2006, as amended from time to time, by and between the Registrant and Computershare Trust Company, N.A., as Rights Agent (the Rights Agreement ). The Preferred Share Purchase Rights are not exercisable until the occurrence of certain events specified in the Rights Agreement, are evidenced by the stock certificates representing the Common Stock and are transferable solely with the Common Stock. The value attributable to the Preferred Share Purchase Rights, if any, is reflected in the value of the Common Stock.
- (2) 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.
- (3) Estimated solely for the purpose of calculating the amount of the registration fee pursuant to Rule 457(h) promulgated under the Securities Act. The offering price per share and the aggregate offering price are based upon the average of the high and low prices of the Registrant's Common Stock as reported on The NASDAQ Global Market on February 22, 2008, in accordance with Rule 457(c) of the Securities Act. The chart below details the calculation of the registration fee:

Title of Securities to be Registered (1)	Number of Shares	Offering Price Per Share	Aggregate Offering Price
Common Stock, par value \$0.001 per share, reserved for future issuance under the 2004 Stock Plan	1,250,000	\$ 6.49	\$ 8,112,500.00
Common Stock, par value \$0.001 per share, reserved for future issuance under the 2004 Employee Stock Purchase Plan	125,000	\$ 6.49	\$ 811,250.00
<b>Total</b>	<b>1,375,000</b>		<b>\$ 8,923,750.00</b>

**EXPLANATORY NOTE**

This Registration Statement on Form S-8 is being filed for the purpose of registering an additional (i) 1,250,000 shares of the Registrant's Common Stock to be issued pursuant to the Registrant's 2004 Stock Plan and (ii) 125,000 shares of the Registrant's Common Stock to be issued pursuant to the Registrant's 2004 Employee Stock Purchase Plan.

**INCORPORATION BY REFERENCE OF CONTENTS OF REGISTRATION**

**STATEMENTS ON FORM S-8**

The contents of (i) the Registration Statement on Form S-8 (File No. 333-142624), (ii) the Registration Statement on Form S-8 (File No. 333-132534), (iii) the Registration Statement on Form S-8 (File No. 333-126307) and (iv) the Registration Statement on Form S-8 (File No. 333-113718), as amended by Post-Effective Amendment No. 1 on Form S-8, filed with the SEC on June 30, 2005, are incorporated by reference herein.

**EXHIBITS**

**Exhibit**

<b>Number</b>	<b>Description</b>
3.1(1)	Amended and Restated Certificate of Incorporation
3.2(2)	Amended and Restated Bylaws, as amended
3.3(3)	Certificate of Designation of Series A Junior Participating Preferred Stock
3.4(3)	Certificate of Amendment of Amended and Restated Certificate of Incorporation
3.5(2)	Certificate of Amendment of Amended and Restated Certificate of Incorporation
4.1(4)	Form of Specimen Stock Certificate
4.2	Reference is made to Exhibits 3.1, 3.2, 3.3, 3.4 and 3.5
4.3(5)	Warrant issued to Kingsbridge Capital Limited, dated October 14, 2005
4.4(4)	Warrant issued to Ipsen, S.A., dated October 13, 2006
4.5A(4)	First Senior Convertible Promissory Note issued to Ipsen, S.A., dated October 13, 2006
4.5B(6)	Second Senior Convertible Promissory Note issued to Ipsen, S.A., dated September 17, 2007
4.5C(6)	Third Senior Convertible Promissory Note issued to Ipsen, S.A., dated September 17, 2007
4.6A(4)	Rights Agreement, dated as of October 13, 2006, between the Registrant and Computershare Trust Company, N.A., as Rights Agent
4.6B(4)	Form of Right Certificate
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 is contained in Exhibit 5.1 to this Registration Statement
24.1	Power of Attorney (contained on the signature pages hereto)
99.1(4)	2004 Stock Plan, as amended
99.2(7)	Form of Option Agreement under the 2004 Stock Plan
99.3(4)	2004 Employee Stock Purchase Plan, as amended
99.4(7)	Form of Subscription Agreement under the 2004 Employee Stock Purchase Plan

- (1) Filed as an exhibit to the Registrant's quarterly report on Form 10-Q (File No. 000-50461) filed on May 13, 2004, and incorporated herein by reference.
- (2) Filed as an exhibit to the Registrant's current report on Form 8-K (File No. 000-50461) filed on May 25, 2007, and incorporated herein by reference.
- (3) Filed as an exhibit to the Registrant's current report on Form 8-K (File No. 000-50461) filed on October 18, 2006, and incorporated herein by reference.
- (4) Filed as an exhibit to the Registrant's quarterly report on Form 10-Q (File No. 000-50461) filed on November 3, 2006, and incorporated herein by reference.

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- (5) Filed as an exhibit to the Registrant's quarterly report on Form 10-Q (File No. 000-50461) filed on November 4, 2005, and incorporated herein by reference.
- (6) Filed as an exhibit to the Registrant's current report on Form 8-K (File No. 000-50461) filed on September 18, 2007, and incorporated herein by reference.
- (7) Filed as an exhibit to the Registrant's Registration Statement on Form S-1 (File No. 333-108729) and amendments thereto, declared effective on March 16, 2004, and incorporated herein 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 the City of Brisbane, State of California, on this 28th day of February, 2008.

**TERCICA, INC.**

By: /s/ John A. Scarlett, M.D.  
John A. Scarlett, 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 John A. Scarlett, M.D., Ajay Bansal and Stephen N. Rosenfield, 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 (the SEC), and generally to do all such things in their names and behalf in their capacities as officers and directors to enable the Registrant to comply with the provisions of the Securities Act of 1933 and all requirements of the SEC, 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 or she might or could do in person, ratifying and confirming all that said attorneys-in-fact and agents, or any of them, or their or his substitutes or substitute, may lawfully do or cause to be done by virtue hereof.

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.

Signature	Title	Date
/s/ John A. Scarlett, M.D.	Chief Executive Officer and Director	February 28, 2008
John A. Scarlett, M.D.	<i>(Principal Executive Officer)</i>	
/s/ Ajay Bansal	Chief Financial Officer and Senior Vice President of Finance, Corporate Development and Corporate Communications	February 28, 2008
Ajay Bansal	<i>(Principal Financial Officer)</i>	
/s/ Susan Wong	Vice President, Finance & Chief Accounting Officer	February 28, 2008
Susan Wong	<i>(Principal Accounting Officer)</i>	
/s/ Alexander Barkas, Ph.D.	Chairman	February 28, 2008
Alexander Barkas, Ph.D.		
/s/ Ross G. Clark, Ph.D.	Director	February 28, 2008
Ross G. Clark, Ph.D.		
/s/ Karin Eastham	Director	February 28, 2008
Karin Eastham		
	Director	
Faheem Hasnain		
/s/ Christophe Jean	Director	February 28, 2008
Christophe Jean		
/s/ Mark Leschly	Director	February 28, 2008
Mark Leschly		

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/s/ David L. Mahoney

Director

February 28, 2008

David L. Mahoney

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