

IsoRay, Inc.  
Form S-3MEF  
July 16, 2012

**As Filed with the Securities and Exchange Commission on July 16, 2012**

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

**UNITED STATES**

**SECURITIES AND EXCHANGE COMMISSION**

**Washington, D.C. 20549**

**FORM S-3**

**REGISTRATION STATEMENT**

***UNDER***

***THE SECURITIES ACT OF 1933***

**ISORAY, INC.**

*(Exact name of registrant as specified in its charter)*

Minnesota  
*(State or other jurisdiction)*

41-1458152  
*(I.R.S. Employer)*

Edgar Filing: IsoRay, Inc. - Form S-3MEF  
*of incorporation or organization) Identification No.)*

**350 Hills Street, Suite 106**

**Richland, WA 99354**

**(509) 375-1202**

**(Address and Telephone Number of Principal Executive Offices and Principal Place of Business)**

**Dwight Babcock, CEO**

**350 Hills Street, Suite 106**

**Richland, WA 99354**

**(509) 375-1202**

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

*Copy to:*

**Stephen R. Boatwright, Esq.**

**Alicia M. Corbett, Esq.**

**Keller Rohrback, PLC**

**3101 North Central Avenue, Suite 1400**

**Phoenix, Arizona 85012**

**(602) 248-0088**

**Facsimile Number: (602) 248-2822**

Approximate date of commencement of proposed sale to the public: **From time to time after the effective date of this Registration Statement.**

If the only securities being registered on this form are being offered pursuant to dividend or interest reinvestment plans, please check the following box.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, other than securities offered only in connection with dividend or interest reinvestment plans, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.  333-162694

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a registration statement pursuant to General Instruction I.D. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box.

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.D. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box.

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  (Do not check if a smaller reporting company) Smaller reporting company

**CALCULATION OF REGISTRATION FEE**

| <b>Title of Each Class of Securities to be Registered</b> | <b>Amount to be Registered(1)(2)</b> | <b>Proposed Maximum Offering Price Per Unit</b> | <b>Proposed Maximum Aggregate Offering Price(1)(2)</b> | <b>Amount of Registration Fee</b> |
|---|--------------------------------------|---|--|-----------------------------------|
| Common Stock \$0.001 par value per share(3)               | —                                    | —   | —  | —                                 |
| Warrants(2)   | —                                    | —   | —  | —                                 |
| <b>Total(3)</b>   | <b>\$585,559 (3)</b>                 | <b>100% (4)</b>                                 | <b>\$585,559</b>                                       | <b>\$67.11 (5)</b>                |

Does not include an aggregate \$15,000,000 of common stock and warrants registered by IsoRay, Inc. on a registration statement on Form S-3 (File No. 333-162694) that was declared effective by the Securities and Exchange Commission on November 13, 2009. The registrant has estimated the amount to be registered and the proposed maximum offering price solely for the purpose of calculating the registration fee pursuant to 457(o). The amount is not specified as to each class of security pursuant to General Instruction II.D. of Form S-3 under the Securities Act.

(2)Includes warrants to purchase shares of common stock.

The securities registered hereunder may be sold separately, or as units with other securities registered hereby. The proposed maximum offering price per unit will be determined by us in connection with the issuance of such (3) securities. In no event will the aggregate offering price of all securities issued from time to time pursuant to this Registration Statement exceed \$585,559. The aggregate amount of common stock registered hereunder is further limited to that which is permissible under Rule 415(a)(4) under the Securities Act, to the extent applicable.

We will determine the proposed maximum offering price per unit in connection with the issuance of the securities (4) and it is not specified as to each class of security pursuant to General Instruction II.D. of Form S-3 under the Securities Act.

(5) Calculated pursuant to Rule 457(o) under the Securities Act.

**THIS REGISTRATION STATEMENT SHALL BECOME EFFECTIVE UPON FILING WITH THE COMMISSION IN ACCORDANCE WITH RULE 462(b) UNDER THE SECURITIES ACT OF 1933, AS AMENDED.**

**EXPLANATORY NOTE**

This Registration Statement is being filed with the Securities and Exchange Commission (the “Commission”) pursuant to Rule 462(b) under the Securities Act of 1933, as amended, and General Instruction IV(A) to Form S-3.

This Registration Statement relates to the shelf registration statement on Form S-3 (File No. 333-162694) filed by IsoRay, Inc. on October 27, 2009, and declared effective on November 13, 2009 by the Commission (the “Prior Registration Statement”), and is being filed for the purpose of increasing the dollar amount of securities registered under the Prior Registration Statement by \$585,559. The contents of the Prior Registration Statement, including the exhibits thereto and each of the documents incorporated by reference therein, are incorporated herein by reference in their entirety.

The required opinion and consents are listed on an Exhibit Index attached hereto and filed herewith.

**Exhibits.**

| Exhibit<br>Number | Description  |
|-------------------|--|
| 5.1               | Opinion of Keller Rohrback, PLC.   |
| 23.1              | Consent of Keller Rohrback, PLC (included in its opinion filed as Exhibit 5.1 hereto).     |
| 23.2              | Consent of DeCoria, Maichel & Teague, P.S., independent registered public accounting firm. |
| 24.1              | Power of Attorney (included on the signature page hereof)                                  |



**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-3 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Richland, State of Washington, on July 12, 2012.

ISORAY, INC.

By: /s/ Dwight Babcock  
Chief Executive Officer

**POWER OF ATTORNEY**

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Dwight Babcock and Brien Ragle, and each of them individually, as his true and lawful attorneys-in-fact and agents with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities to sign the Registration Statement filed herewith and any or all amendments to said Registration Statement (including post-effective amendments and registration statements filed pursuant to Rule 462(b) under the Securities Act of 1933, as amended, and otherwise), 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 the full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the foregoing, as full 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 his or her substitute, may lawfully do or cause to be done by virtue thereof.

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/ Dwight Babcock<br>Dwight Babcock         | President, Chief Executive Officer and<br>Chairman of the Board of Directors<br><br>(Principal Executive Officer) | July 12, 2012 |
| /s/ Brien Ragle<br>Brien Ragle               | Controller<br>(Principal Financial and Accounting Officer)  | July 12, 2012 |
| /s/ Robert R. Kauffman<br>Robert R. Kauffman | Director  | July 12, 2012 |
| /s/ Thomas LaVoy<br>Thomas LaVoy             | Director  | July 12, 2012 |
| /s/ Albert Smith<br>Albert Smith             | Director  | July 12, 2012 |