

INPHI Corp

Form S-8

January 11, 2017

As filed with the Securities and Exchange Commission on January 11, 2017

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

(I.R.S. Employer

incorporation or organization)

Identification No.)

2953 Bunker Hill Lane, Suite 300

95054

Santa Clara, CA

(Zip Code)

(Address of principal executive offices)

Stock Units Granted as Employment Inducement Awards Outside of a Plan

(Full title of the plans)

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

Copy to:
 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, or a smaller reporting company. See definitions of “large accelerated filer,” “accelerated filer” and “small 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 smaller reporting company)

CALCULATION OF REGISTRATION FEE

Title of Securities To Be Registered	Amount To Be Registered ⁽¹⁾	Proposed	Proposed	Amount of Registration Fee
		Maximum Offering Price Per Share ⁽³⁾	Maximum Aggregate Offering Price	
Common Stock, par value \$0.001 per share:	983,938 ⁽²⁾	\$43.31	\$42,614,355	\$4,939.00

(1) 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.

(2) Consists of stock units issued outside of the Registrant’s employee equity compensation plans to certain individuals to induce such individuals to accept employment with the Registrant.

(3) Calculated pursuant to Rule 457(h) 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 December 13, 2016.

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

EXPLANATORY NOTE

Inphi Corporation (the “Registrant”) is filing this Registration Statement on Form S-8 with the Securities and Exchange Commission (the “Commission”) to register 983,938 aggregate shares of the Registrant’s Common Stock which may be issued pursuant to stock units (the “*Employment Inducement Awards*”) granted December 13, 2016 to certain former employees of ClariPhy Communications, Inc. in order to induce their commencement of employment with the Registrant. The Employment Inducement Awards were approved by the Compensation Committee of the Registrant’s Board of Directors pursuant to Section 303A(8) of the NYSE Listed Company Manual, which exempts employment inducement grants from the general requirement of the NYSE Listed Company Manual that equity-based compensation plans and arrangements be approved by stockholders. The Employment Inducement Awards were granted outside of the Registrant’s stockholder-approved equity incentive plans.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

Item 1. Plan Information. *

Item 2. Registrant Information and Employee Program Annual Information.*

*Information required by Part I to be contained in the Section 10(a) prospectus is omitted from this Registration Statement in accordance with Rule 428 under the Securities Act and the Note to Part I of Form S-8.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference

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The following documents and information previously filed with the SEC by the Registrant are incorporated by reference herein (excluding any portions of such documents that were “furnished”, “not filed”, for purposes of the Securities Exchange Act of 1934, as amended (the “Exchange Act”)).

- (a) Registrant’s Annual Report on Form 10-K (File No. 001-34942) for the fiscal year ended December 31, 2015, filed with the SEC on February 29, 2016.

- (b) Registrant’s Quarterly Reports on Form 10-Q (File No. 001-34942) for the fiscal quarters ended March 31, 2016, June 30, 2016 and September 30, 2016, filed with the SEC on May 4, 2016, August 9, 2016 and November 7, 2016, respectively.

- (c) Registrant’s Current Reports on Form 8-K (File No. 001-34942) filed with the SEC on April 26, 2016, June 17, 2016, June 30, 2016, August 9, 2016, September 6, 2016, September 12, 2016, November 1, 2016 and December 12, 2016, respectively.

- (d) The description of Registrant’s common stock contained in Registrant’s registration statement on Form 8-A (File No. 001-34942) filed on October 29, 2010 pursuant to Section 12(b) of 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 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

The validity of the shares of common stock offered hereby has been passed upon for the Registrant by Pillsbury Winthrop Shaw Pittman LLP, Palo Alto, California.

Item 6. Indemnification of Directors and Officers.

Section 145 of the Delaware General Corporation Law authorizes a court to award or a corporation's board of directors to grant indemnification to directors and officers in terms sufficiently broad to permit such indemnification under certain circumstances for liabilities (including reimbursement for expenses incurred) arising under the Securities Act of 1933. The Registrant's Restated Certificate of Incorporation (Exhibit 3(i) to the Registrant's Annual Report on Form 10-K) and the Registrant's Amended and Restated Bylaws (Exhibit 3(ii) to the Registrant's Annual Report on Form 10-K) provide for indemnification of the Registrant's directors, officers, employees and other agents to the extent and under the circumstances permitted by the Delaware General Corporation Law.

The Registrant has entered into Indemnification Agreements (Exhibit 10.3 to the Registrant's Registration Statement on Form S-1 (File No. 333-167564)) with its officers and directors that will require the Registrant to, among other things, indemnify them against certain liabilities that may arise by reason of their status or service as directors or officers to the fullest extent not prohibited by law.

Item 7. Exemption From Registration Claimed.

Not applicable.

Item 8. Exhibits

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Exhibit No.	Description
4.1	Form of Notice of Stock Unit Award and Stock Unit Agreement.
4.2	Restated Certificate of Incorporation of the Registrant (incorporated herein by reference to Exhibit 3(i) to the Registrant's annual report on Form 10-K for the year ended December 31, 2010 (File No. 001-34942)).
4.3	Amended and Restated Bylaws of the Registrant (incorporated by reference to Exhibit 3.1 of the Registrant's current report on Form 8-K filed with the SEC on October 20, 2015).
4.4	Specimen Common Stock Certificate (incorporated by reference to Exhibit 4.1 filed with Registration Statement on Form S-1 (File No. 333-167564), as amended).
5.1	Opinion of Pillsbury Winthrop Shaw Pittman LLP.
23.1	Consent of PricewaterhouseCoopers LLP, independent registered public accounting firm.
23.2	Consent of Pillsbury Winthrop Shaw Pittman LLP (included in Exhibit 5.1).
24.1	Power of attorney (included in the signature page to this Registration Statement).

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 of 1933;

(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 set forth in this 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 SEC pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20% 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 this Registration Statement or any material change to such information in this Registration Statement;

provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) of this section do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Commission by the registrant pursuant to section 13 or section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in this Registration Statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, 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 of 1933, each filing of the Registrant's annual report pursuant to section 13(a) or section 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in this 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.

(c) Insofar as indemnification for liabilities arising under the Securities Act of 1933 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 a 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 the city of Santa Clara, State of California, on the 11th day of January, 2017.

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 true and lawful attorneys-in-fact and agents, each with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective 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 might or could do in person, hereby ratifying and confirming all that each of said attorneys-in-fact and agents, or his 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	President, Chief Executive Officer (Principal Executive Officer) and Director	January 11, 2017

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/s/ John Edmunds John Edmunds	Chief Financial Officer (Principal Financial and Accounting Officer)	January 11, 2017
/s/ Diosdado P. Banatao Diosdado P. Banatao	Chairman of the Board	January 11, 2017
/s/ Nicholas Brathwaite Nicholas Brathwaite	Director	January 11, 2017
/s/ Chenming Hu Chenming Hu	Director	January 11, 2017
/s/ David Liddle David Liddle	Director	January 11, 2017
/s/ Bruce McWilliams Bruce McWilliams	Director	January 11, 2017
/s/ Elissa Murphy Elissa Murphy	Director	January 11, 2017
/s/ Sam S. Srinivasan Sam S. Srinivasan	Director	January 11, 2017

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