

MICROSEMI CORP  
Form S-8  
April 30, 2008

As filed with the Securities and Exchange Commission on April 30, 2008

Registration No.

**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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**MICROSEMI CORPORATION**

(Exact Name of Registrant as Specified in Its Charter)

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**Delaware**  
(State or Other Jurisdiction of  
Incorporation or Organization)

**95-2110371**  
(I.R.S. Employer  
Identification No.)

**2381 Morse Avenue**

**Irvine, California 92614**  
(Address, Including Zip Code, of Principal Executive Offices)

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**Microsemi Corporation 2008 Performance Incentive Plan**

(Full Title of the Plan)

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**John W. Hohener,  
Vice President, Chief Financial Officer, Secretary and Treasurer  
Microsemi Corporation**

**2381 Morse Avenue**

**Irvine, California 92614  
(949) 221-7100**

(Name, Address and Telephone Number, Including Area Code, of Agent for Service)

**COPY TO:**

**Warren T. Lazarow, Esq.  
O Melveny & Myers LLP**

2765 Sand Hill Road

Menlo Park, California 94025

(650) 473-2600

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**CALCULATION OF REGISTRATION FEE**

Title of Securities To Be Registered		Amount To Be Registered		Proposed Maximum Offering Price Per Share	Proposed Maximum Aggregate Offering Price	Amount Of Registration Fee
Common Stock, \$0.20 par value per share		4,062,719 shares <sup>(1)(2)</sup>		N/A <sup>(3)</sup>	N/A <sup>(3)</sup>	N/A <sup>(3)</sup>
<sup>(1)</sup>	This Registration Statement covers, in addition to the number of shares of Microsemi Corporation, a Delaware corporation (the Company or the Registrant ), common stock, par value \$0.20 per share (the Common Stock ), stated above, options and other rights to purchase or acquire the shares of Common Stock covered by this Registration Statement and, pursuant to Rule 416(c) under the Securities Act of 1933,					

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	as amended (the Securities Act ), an additional indeterminate number of shares, options and rights that may be offered or issued pursuant to the Microsemi Corporation 2008 Performance Incentive Plan (the 2008 Plan ) as a result of one or more adjustments under the 2008 Plan to prevent dilution resulting from one or more stock splits, stock dividends or similar transactions.
(2)	Each share of Common Stock is accompanied by a junior participating preferred stock purchase right pursuant to the Rights Agreement, dated December 22, 2000 and amended December 16, 2005, between the Company and Mellon Investor Services LLC, as Rights Agent.
(3)	As described in the Explanatory Note on page 2 of this Registration Statement, all of the shares of Common Stock registered hereby (the Carryover Shares ) were previously registered by the Company under its 1987 Stock Plan (the 1987 Plan ) on Form S-8, filed with the Securities and Exchange Commission (the Commission ) on October 28, 2005 (Commission File No. 333-129283). A post-effective amendment to the foregoing Form S-8 to deregister the Carryover Shares is being filed contemporaneously with the filing of this Registration Statement. The registration fee with respect to the Carryover Shares was paid upon filing of the original Registration Statement on Form S-8 as described above. Therefore, no further registration fee is required.
	The Exhibit Index for this Registration Statement is at page 10.

**EXPLANATORY NOTE**

The Company's stockholders approved the 2008 Plan on February 20, 2008 (the "Stockholder Approval Date"). The 2008 Plan provides that shares available for award grants under the Company's 1987 Plan as of the Stockholder Approval Date are available for award grants under the 2008 Plan. The Company's authority to grant new awards under the 1987 Plan terminated upon stockholder approval of the 2008 Plan.

The purpose of this Registration Statement is to carry forward the Carryover Shares (i.e., the shares available for award grant purposes as of the Stockholder Approval Date under the 1987 Plan to the extent such shares were previously registered) to this Registration Statement. The Carryover Shares consist of 4,062,719 shares previously registered under the 1987 Plan on Form S-8, filed with the Commission on October 28, 2005 (Commission File No. 333-129283). (That Form S-8 registered a total of 6,000,000 shares under the 1987 Plan.) The registration fee paid with respect to the registration of the Carryover Shares on the foregoing Form S-8 was approximately \$15,854.19.

In accordance with the principles set forth in Interpretation 89 under Section G of the Manual of Publicly Available Telephone Interpretations of the Commission's Division of Corporation Finance (July 1997) and Instruction E to the General Instructions to Form S-8, this Registration Statement is hereby filed to carry forward the 4,062,719 Carryover Shares from the 1987 Plan to the 2008 Plan and the \$10,735.19 registration fee previously paid with respect to the registration of those shares. A post-effective amendment to the foregoing Form S-8 to deregister the Carryover Shares is being filed contemporaneously with the filing of this Registration Statement.

**PART I**

INFORMATION REQUIRED IN THE  
SECTION 10(a) PROSPECTUS

The document(s) containing the information specified in Part I of Form S-8 will be sent or given to participants as specified by Securities Act Rule 428(b)(1).

**PART II**

INFORMATION REQUIRED IN THE  
REGISTRATION STATEMENT

**Item 3. Incorporation of Certain Documents by Reference**

The following documents of the Company filed with the Securities and Exchange Commission (the Commission) are incorporated herein by reference:

- (a) The Company's Annual Report on Form 10-K for its fiscal year ended September 30, 2007, filed with the Commission on November 21, 2007 (Commission File No. 000-08866);
- (b) The Company's Quarterly Report on Form 10-Q for its fiscal quarter ended December 30, 2007 filed with the SEC on February 8, 2008 (Commission File No. 000-08866);
- (c) The Company's Current Reports on Form 8-K, filed with the Commission on October 3, 2007, November 16, 2007, November 19, 2007, and February 25, 2008 (each, Commission File No. 000-08866);
- (d) The description of the Company's Common Stock contained in its Registration Statement on Form 10/A (Amendment No. 2) filed with the Commission on January 30, 2006 (Commission File No. 000-08866), and any other amendment or report filed for the purpose of updating such description; and
- (e) The description of the Company's Series A Junior Participating Preferred Stock and Rights to Purchase Junior Participating Preferred Stock contained in its Registration Statement on Form 8-A/A (Amendment No. 1) filed with the Commission on January 30, 2006 (Commission File No. 000-08866), and any other amendment or report filed for the purpose of updating such description.

All documents subsequently filed by the Company pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934, as amended (the Exchange Act), prior to the filing of a post-effective amendment which indicates that all securities offered hereby have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference into this Registration Statement and to be a part hereof from the date of filing of such documents; provided, however, that documents or information deemed to have been furnished

and not filed in accordance with Commission rules shall not be deemed incorporated by reference into this Registration Statement. Any statement contained herein or in a document, all or a portion of which is incorporated or deemed to be incorporated by reference herein, shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or amended, to constitute a part of this Registration Statement.

**Item 4. Description of Securities**

Not applicable.

**Item 5. Interests of Named Experts and Counsel**

Not applicable.

**Item 6. Indemnification of Directors and Officers**

Section 145 of the Delaware General Corporation Law (the "DGCL") grants the Registrant the power to indemnify each person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that the person is or was a director, officer, employee or agent of the Registrant, or is or was serving at the request of the Registrant as a director, officer, employee or agent of another enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with any such action, suit or proceeding if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the Registrant, and with respect to any criminal action or proceeding, had no reasonable cause to believe such person's conduct was unlawful, provided, however, no indemnification shall be made in connection with any proceeding brought by or in the right of the Registrant where the person involved is adjudged to be liable to the Registrant except to the extent approved by a court.

The Registrant's Amended and Restated Certificate of Incorporation provides that the Registrant will indemnify and hold harmless to the fullest extent permitted by the DGCL, as amended from time to time, any person who is made a party to any action or proceeding because such person is or was a director or officer of the Registrant, or at the Registrant's request, a director or officer of another enterprise, provided that the person is found to have acted in good faith and in a manner the person reasonably believed to be in, or not opposed to, the best interests of the Registrant. In the case of settlements made before final adjudication, the payment and indemnification thereof must be approved by the Board of Directors. Indemnification under the Registrant's Amended and Restated Certificate of Incorporation is expressly not exclusive of any other rights to which those seeking indemnification may be entitled as a matter of law.

The Registrant's Amended and Restated Certificate of Incorporation provides that directors of the Registrant will not be personally liable to the Registrant or its stockholders for monetary damages for breach of fiduciary duty as a director, whether or not an individual continues to be a director at the time such liability is asserted, except for liability (i) for any breach of the director's duty of loyalty to the Registrant or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the DGCL, relating to prohibited dividends or distributions or the repurchase or redemption of stock, or (iv) for any transaction from which the director derives an improper personal benefit.

Section 145(g) of the DGCL and the Registrant's Amended and Restated Certificate of Incorporation grant the Registrant the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Registrant, or is serving as a director, officer, trustee, employee or agent of another enterprise at the Registrant's request, against any liability asserted against, and incurred by, such person in any such capacity or



arising out of such person's status as such, whether or not the Registrant would have the power to indemnify such person against such liability under the provisions of the DGCL. Pursuant to this authority, the Registrant has purchased and maintains directors' and officers' liability insurance policies covering certain liabilities that the Registrant's present and former directors and officers and former directors and officers of acquired subsidiary companies might incur in connection with the performance of their duties.

**Item 7. Exemption from Registration Claimed**

Not applicable.

**Item 8. Exhibits**

See the attached Exhibit Index at page 10, which is incorporated herein by reference.

**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;

(ii) To reflect in the prospectus any facts or events arising after the effective date of this 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;

(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) do not apply if the registration statement is on Form S-8, and the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed*

with or furnished to the Commission by the Registrant pursuant to Section 13 or 15(d) of the Exchange Act that are incorporated by reference in this Registration Statement.

(2) That, for the purpose of determining any liability under the Securities Act, 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, each filing of the Registrant's annual report pursuant to Section 13(a) or 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) 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.

(h) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, executive officers and controlling persons of the Registrant pursuant to the provisions described in Item 6 above, 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 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 Form S-8 Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Irvine, State of California, on April 29, 2008.

MICROSEMI CORPORATION

By: /S/ JOHN W. HOHENER  
John W. Hohener  
Vice President, Chief Financial Officer,  
Secretary and Treasurer

**POWER OF ATTORNEY**

Each person whose signature appears below constitutes and appoints James J. Peterson and John W. Hohener, or either one or both of them, as his or her true and lawful attorneys-in-fact and agents, 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, exhibits thereto and other documents in connection therewith) to this Registration Statement, and to file the same, with all exhibits thereto, and other documents in connection therewith, with the 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 and about the premises, as fully to all intents and purposes as he or she 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.

<b>Signature</b>	<b>Title</b>	<b>Date</b>
/S/ JAMES J. PETERSON James J. Peterson	Director, President and Chief Executive Officer (Principal Executive Officer)	April 29, 2008
/S/ JOHN W. HOHENER John W. Hohener	Vice President, Chief Financial Officer, Secretary and Treasurer (Principal Financial and Accounting Officer)	April 29, 2008
/S/ DENNIS R. LEIBEL Dennis R. Leibel	Chairman of the Board and Director	April 29, 2008
/S/ THOMAS R. ANDERSON Thomas R. Anderson	Director	April 29, 2008
/S/ WILLIAM L. HEALEY William L. Healey	Director	April 29, 2008
/S/ WILLIAM E. BENDUSH William E. Bendush	Director	April 29, 2008
/S/ PAUL F. FOLINO Paul F. Folino	Director	April 29, 2008
/S/ MATTHEW E. MASSENGILL Matthew E. Massengill	Director	April 29, 2008

**EXHIBIT INDEX**

<b>Exhibit Number</b>	<b>Description of Exhibit</b>
4.	Microsemi Corporation 2008 Performance Incentive Plan. (Filed as Appendix B to the Company's Definitive Proxy Statement on Schedule 14A, filed with the Commission on January 18, 2008 (Commission File No. 000-08866) and incorporated herein by this reference.)
5.	Opinion of O Melveny & Myers LLP (opinion re legality).
23.1	Consent of PricewaterhouseCoopers LLP (consent of independent registered public accounting firm).
23.2	Consent of Counsel (included in Exhibit 5).
24.	Power of Attorney (included in this Registration Statement under Signatures ).