

Edgar Filing: RED HAT INC - Form S-8

RED HAT INC  
Form S-8  
October 19, 2001

As filed with the Securities and Exchange Commission on October 19, 2001  
Registration No. 333-\_\_\_\_\_

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

FORM S-8

REGISTRATION STATEMENT UNDER  
THE SECURITIES ACT OF 1933

Red Hat, Inc.  
(Exact name of registrant as specified in its charter)

Delaware  
(State or other jurisdiction of  
incorporation or organization)

06-1364380  
(I.R.S. Employer  
Identification No.)

2600 Meridian Parkway  
Durham, North Carolina  
(Address of Principal Executive Offices)

27713  
(Zip Code)

Red Hat, Inc. 1999 Stock Option and Incentive Plan, As Amended on August 2, 2001  
(Full title of the plan)

Matthew J. Szulik  
President and Chief Executive Officer

Red Hat, Inc.  
2600 Meridian Parkway  
Durham, North Carolina 27713  
(Name and address of agent for service of process)

(919) 547-0012  
(Telephone number, including area code, of agent for service)

Copy to:

Brian T. Atkinson, Esq.  
Moore & Van Allen PLLC  
100 North Tryon Street, Floor 47  
Charlotte, North Carolina 28202-4003

(704) 331-1000

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 (1) |
|--------------------------------------|-------------------------|---|---|
|                                      |                         |   |   |

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|  |            |        |              |
|--|------------|--------|--------------|
| Common stock, par value \$0.0001 per share | 15,000,000 | \$3.99 | \$59,850,000 |
|--|------------|--------|--------------|

(1) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(h) under the Securities Act of 1933, as amended, based upon the average of the high and low prices of the Registrant's Common Stock, par value \$.0001 per share, reported on the Nasdaq National Market on October 16, 2001, which were \$4.19 and \$3.78, respectively.

EXPLANATORY NOTE

This Registration Statement relates to the registration of additional securities issuable pursuant to an employee benefit plan for which a Registration Statement on Form S-8 (Reg. No. 333-96163) was filed by Red Hat, Inc. with the Securities and Exchange Commission on February 4, 2000. The contents of the Registration Statement filed on February 4, 2000 are incorporated herein by this reference.

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 Durham in the State of North Carolina, on this 18th day of October, 2001.

RED HAT, INC.

By: /s/ Matthew J. Szulik

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 Matthew J. Szulik  
 President and Chief Executive Officer

Pursuant to the requirements of the Securities Act, this Registration Statement has been signed by the following persons in the capacities and on the date indicated.

| Signature  | Title   |       |
|--|---|-------|
| -----<br>/s/ MATTHEW J. SZULIK<br>-----<br>Matthew J. Szulik | Chief Executive Officer, President and Director (principal executive officer) | Octob |

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|   |  |       |
|---|--|-------|
| /S/ KEVIN B. THOMPSON<br>-----<br>Kevin B. Thompson   | Senior Vice President and Chief<br>Financial Officer (principal<br>financial and accounting officer) | Octob |
| /S/ ROBERT F. YOUNG<br>-----<br>Robert F. Young       | Director   | Octob |
| /S/ EUGENE J. MCDONALD<br>-----<br>Eugene J. McDonald | Director   | Octob |
| /S/ WILLIAM S. KAISER<br>-----<br>William S. Kaiser   | Director   | Octob |
| /S/ ERIC HAHN<br>-----<br>Eric Hahn                   | Director   | Octob |
| /S/ F. SELBY WELLMAN<br>-----<br>F. Selby Wellman     | Director   | Octob |

INDEX TO EXHIBITS

| Exhibit No. | Description   |
|-------------|---|
| -----       | -----   |
| 5           | Opinion of Moore & Van Allen, PLLC                          |
| 23.1        | Consent of Moore & Van Allen, PLLC (included in Exhibit 5). |
| 23.2        | Consent of PricewaterhouseCoopers LLP                       |