Google Inc.
Form S-8
September 29, 2004

**As filed with the Securities and Exchange Commission on September 29, 2004**

**Registration No. 333-_____**

# 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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# GOOGLE INC.

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

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| **Delaware** | **77-0493581** |
|---|---|
| **(State or other jurisdiction of incorporation or organization)** | **(I.R.S. Employer Identification Number)** |

**1600 Amphitheatre Parkway**

**Mountain View, CA 94043**
**(Address of principal executive offices)**

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**PICASA, INC. EMPLOYEE BONUS PLAN**

**(Full title of the plans)**

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**Eric Schmidt**

**Chief Executive Officer**

**Google Inc.**

**1600 Amphitheatre Parkway**

**Mountain View, CA 94043**

**(650) 623-4000**

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

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*Copy to:*

**Christian E. Montegut, Esq.**

**Donald S. Harrison, Esq.**

**Ricardo E. Velez, Esq.**

**Wilson Sonsini Goodrich & Rosati**

**Professional Corporation**

**650 Page Mill Road**

**Palo Alto, CA 94304-1050**

**(650) 493-9300**

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**CALCULATION OF REGISTRATION FEE**

| Title of Securities to be Registered | Maximum Amount to be Registered (1) | Proposed Maximum Offering Price Per Share (2) | Proposed Maximum Aggregate Offering Price | Amount of Registration Fee |
|---|---|---|---|---|
| Class A common stock, $0.001 par value | 10,000 shares (3) | $ 118.24 | $ 1,182,400.00 | $ 149.81 |

(1) Pursuant to Rule 416(a) under the Securities Act, this Registration Statement shall also cover any additional shares of the Registrant s Class A common stock that become issuable under the Picasa, Inc. Employee Bonus Plan by reason of any stock dividend, stock split,

recapitalization or other similar transaction effected without the receipt of consideration that increases the number of the Registrant s outstanding shares of Class A common stock.

(2) The offering price of $118.24 per share is estimated in accordance with Rule 457(h) under the Securities Act of 1933, as amended ( Securities Act ), solely for the purpose of computing the amount of the registration fee and is equal to the average of the high and low sales price of a share of Google Inc. Class A common stock as reported by The Nasdaq Stock Market on September 22, 2004.

(3) Represents Class A common stock issuable in connection with the Picasa, Inc. Employee Bonus Plan as of the date of this Registration Statement.

**GOOGLE INC.**

**REGISTRATION STATEMENT ON FORM S-8**

**PART II**

**INFORMATION REQUIRED IN REGISTRATION STATEMENT**

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

We incorporate by reference in this Registration Statement the following documents and information filed by Google Inc. (the **Company** ) with the Securities and Exchange Commission (the **SEC** ):

(1) The Company s prospectus as filed with the SEC on August 19, 2004 pursuant to Rule 424(b) of the Securities Act, relating to the registration statement on Form S-1 (File No. 333-114984), that contains audited financial statements for the Company s latest fiscal year for which such statements have been filed.

(2) The Company s Quarterly Report on Form 10-Q for the quarter ended June 30, 2004, initially filed with the SEC on August 16, 2004 pursuant to Section 13(a) of the Exchange Act, and subsequently amended on August 18, 2004.

(3) The Company s Current Report on Form 8-K, filed with the SEC on July 9, 2004 pursuant to Section 13(a) of the Exchange Act.

(4) All other filings made by us with the SEC pursuant to Section 13(a) or 15(d) of the Exchange Act since June 28, 2004.

(5) The description of the Company s common stock contained in the Company s Registration Statement on Form 10 as filed with the SEC on July 7, 2004 pursuant to Section 12(g) of the Exchange Act and effective as of June 28, 2004.

All documents filed by the Company pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act on or after the date of this Registration Statement and 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 part hereof from the date of filing of such documents.

**Item 4. Description of Securities.**

Not applicable.

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

Certain members of Wilson Sonsini Goodrich & Rosati, Professional Corporation, and investment partnerships of which such persons are partners, beneficially own 197,132 shares of the Company s Class B common stock, which is convertible at any time into shares of Class A common stock on a one-for-one basis.

**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, indemnity to officers, directors and other corporate agents in terms sufficiently broad to permit such indemnification under certain circumstances and subject to certain limitations. As permitted by Section 145 of the Delaware General Corporation Law, the registrant s amended and restated certificate of incorporation includes a provision that eliminates the personal liability of its directors for monetary damages for breach of their fiduciary duty as directors.

In addition, as permitted by Section 145 of the Delaware General Corporation Law, the bylaws of the registrant provide that:

> The registrant shall indemnify its directors and officers for serving the registrant in those capacities or for serving other business enterprises at the registrant s request, to the fullest extent permitted by Delaware law, if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the registrant, and, with respect to any criminal proceeding, had no reasonable cause to believe such person s conduct was unlawful.
>
> The registrant may, in its discretion, indemnify employees and agents in those circumstances where indemnification is not required by law.

The registrant is required to advance expenses, as incurred, to its directors and officers in connection with defending a proceeding, except that such director or officer shall undertake to repay such advances if it is ultimately determined that such person is not entitled to indemnification.

The registrant will not be obligated pursuant to the bylaws to indemnify a person with respect to proceedings initiated by that person, except with respect to proceedings authorized by the registrant s board of directors or brought to enforce a right to indemnification.

The rights conferred in the bylaws are not exclusive, and the registrant is authorized to enter into indemnification agreements with its directors, officers, employees and agents and to obtain insurance to indemnify such persons.

The registrant may not retroactively amend the bylaw provisions to reduce its indemnification obligations to directors, officers, employees and agents.

The registrant s policy is to enter into separate indemnification agreements with each of its directors and executive officers that provide the maximum indemnity allowed to directors and executive officers by Section 145 of the Delaware General Corporation Law and which allow for certain additional procedural protections. The registrant also maintains directors and officers insurance to insure such persons against certain liabilities.

The Third Amended and Restated Investor Rights Agreement between the registrant and certain investors provides for cross-indemnification in connection with registration of the registrant s common stock on behalf of such investors.

These indemnification provisions and the indemnification agreements entered into between the registrant and its officers and directors may be sufficiently broad to permit indemnification of the registrant s officers and directors for liabilities (including reimbursement of expenses incurred) arising under the Securities Act.

**Item 7. Exemption from Registration Claimed.**

Not applicable.

**Item 8. Exhibits.**

| Exhibit Number | Description |
|---|---|
| 5.01 | Opinion of Wilson Sonsini Goodrich & Rosati, Professional Corporation |
| 10.14 | Picasa, Inc. Employee Bonus Plan |
| 23.01 | Consent of Ernst & Young LLP, Independent Registered Public Accounting Firm |
| 23.02 | Consent of Ernst & Young LLP, Independent Registered Public Accounting Firm |

23.03 Consent of Wilson Sonsini Goodrich & Rosati, Professional Corporation (see Exhibit 5.01)

24.01 Power of Attorney (see page II-4).

**Item 9. Undertakings.**

A. The Company hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement to include any material information with respect to the plan of distribution not previously disclosed in the Registration Statement or any material change to such information in the 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 Company hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the Company s annual report pursuant to Section 13(a) or Section 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.

C. Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the Company pursuant to applicable law, the Company s Certificate of Incorporation, as it may be amended from time to time, the Company s Bylaws or the Company s indemnification agreements, the Company has been advised that in the opinion of the Securities and Exchange 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 Company of expenses incurred or paid by a director, officer or controlling person of the Company in a successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered hereunder, the Company 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 of 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 of 1933, the Registrant, Google Inc., a corporation organized and existing under the laws of the State of Delaware, 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 Mountain View, State of California, on this 29th day of September, 2004.

GOOGLE INC.

By: /s/ Eric Schmidt

Eric Schmidt
Chief Executive Officer
(Principal Executive Officer)

**POWER OF ATTORNEY**

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Eric Schmidt and George Reyes, jointly and severally, as his attorneys-in-fact, with full power of substitution in each, for him in any and all capacities to sign any amendments to this Registration Statement on Form S-8, and to file the same, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that each of said attorneys-in-fact, or his substitutes, may 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 below by the following persons in the capacities and on the dates indicated.

| Signature | Title | Date |
|---|---|---|
| /s/ Eric Schmidt<br>Eric Schmidt | Chief Executive Officer and Director (Principal Executive Officer) | September 29, 2004 |
| /s/ George Reyes<br>George Reyes | Chief Financial Officer (Principal Financial and Accounting Officer) | September 29, 2004 |
| /s/ Sergey Brin<br>Sergey Brin | Director | September 29, 2004 |
| /s/ Larry Page<br>Larry Page | Director | September 29, 2004 |
| L. John Doerr | Director | |

| | | |
|---|---|---|
| /s/ Michael Moritz<br>Michael Moritz | Director | September 29, 2004 |
| /s/ Ram Shriram<br>Ram Shriram | Director | September 29, 2004 |
| /s/ John Hennessy<br>John Hennessy | Director | September 29, 2004 |
| /s/ Arthur D. Levinson<br>Arthur D. Levinson | Director | September 29, 2004 |
| /s/ Paul S. Otellini<br>Paul S. Otellini | Director | September 29, 2004 |

**SECURITIES AND EXCHANGE COMMISSION**

**Washington, D.C. 20549**

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**EXHIBITS**

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Registration Statement on Form S-8

**GOOGLE INC.**

September 29, 2004

**INDEX TO EXHIBITS**

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