

CAI International, Inc.  
Form S-8  
June 10, 2009

As filed with the Securities and Exchange Commission on June 10, 2009

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

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

**FORM S-8**  
**REGISTRATION STATEMENT**  
*UNDER*  
*THE SECURITIES ACT OF 1933*

**CAI INTERNATIONAL, INC.**

(Exact name of Registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction  
of incorporation or organization)

**One Embarcadero Center, Suite 2101**

**San Francisco, California 94111**

(Address of Principal Executive Offices)(Zip Code)

**94-3109229**  
(I.R.S. Employer  
Identification No.)

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CAI INTERNATIONAL, INC. 2007 EQUITY INCENTIVE PLAN

(as amended)

(Full title of the plan)

**Masaaki (John) Nishibori**

**President and Chief Executive Officer**

**CAI International, Inc.**

**One Embarcadero Center, Suite 2101**

**San Francisco, California 94111**

**(415) 788-0100**

(Name, address and telephone number of agent for service)

*Copy to:*

**Bruce M. McNamara**

**Perkins Coie LLP**

**101 Jefferson Drive**

**Menlo Park, California 94025**

**(650) 838-4300**

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.

Large accelerated filer

Accelerated filer

Non-accelerated filer   
(Do not check if a smaller reporting company)

Smaller reporting company

**CALCULATION OF REGISTRATION FEE**

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<b>Title of securities to be registered</b>	<b>Amount to be registered (1)</b>	<b>Proposed maximum offering price per share (2)</b>	<b>Proposed maximum aggregate offering price (2)</b>	<b>Amount of registration fee (2)</b>
Common Stock, \$0.0001 par value, under the 2007 Equity Incentive Plan	500,000	\$5.57	\$2,785,000	\$155.40

- (1) Pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the Securities Act ), this Registration Statement shall also cover any additional shares of the Registrant's Common Stock that become issuable under the 2007 Equity Incentive Plan by reason of any stock dividend, stock split or similar transaction effected without the receipt of consideration that increases the number of the Registrant's outstanding shares of Common Stock.
- (2) Estimated in accordance with Rule 457(c) and (h) under the Securities Act solely for the purpose of calculating the registration fee on the basis of \$5.57 per share, which represents the average of the high and low prices reported on the New York Stock Exchange on June 8, 2009.

**PART I**

**INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS**

The documents containing the information specified in this Part I of Form S-8 will be sent or given to participants in the CAI International, Inc. 2007 Equity Incentive Plan, as amended and restated on April 9, 2009 (the Plan), covered by this Registration Statement as specified by Rule 428(b)(1) promulgated under the Securities Act of 1933, as amended (the Securities Act). Such documents need not be filed with the Securities and Exchange Commission (the Commission), either as part of this Registration Statement or as prospectuses or prospectus supplements pursuant to Rule 424 promulgated under the Securities Act. These documents and the documents incorporated by reference in this Registration Statement pursuant to Item 3 of Part II of this Form S-8, taken together, constitute a prospectus that meets the requirements of Section 10(a) of the Securities Act.

**PART II**

**REQUIRED IN REGISTRATION STATEMENT**

**Item 3. INCORPORATION OF CERTAIN DOCUMENTS BY REFERENCE**

The following documents filed by the Registrant with the Commission are hereby incorporated by reference in this Registration Statement:

- (1) The Registrant's Annual Report on Form 10-K for the fiscal year ended December 31, 2008 filed on March 16, 2009;
- (2) The Registrant's Quarterly Report on Form 10-Q for the fiscal quarter ended March 31, 2009 filed on May 8, 2009;
- (3) The Registrant's Current Reports on Form 8-K filed on February 11, March 10, March 16, April 10, May 8, and June 9, 2009; and
- (4) The description of the Registrant's Common Stock contained in the Registrant's Registration Statement on Form 8-A filed on March 28, 2007 under Section 12(b) of the Securities Exchange Act of 1934 (the Exchange Act), including any amendments or reports filed for the purpose of updating such description.

All documents filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act after the date hereof and prior to the filing of a post-effective amendment, which indicates that the securities offered hereby have been sold or which deregisters the securities covered hereby then remaining unsold, shall also be deemed to be incorporated by reference into this Registration Statement and to be a part hereof commencing on the respective dates on which such documents are filed.

**Item 4. DESCRIPTION OF SECURITIES**

Not applicable.

**Item 5. INTERESTS OF NAMED EXPERTS AND COUNSEL**

None.

**Item 6. INDEMNIFICATION OF DIRECTORS AND OFFICERS**

Section 145 of the Delaware General Corporation Law (DGCL) authorizes a corporation to indemnify its directors, officers, employees and agents against expenses (including attorney's fees), judgments, fines and amounts paid in settlement reasonably incurred, provided they act in

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good faith and in a manner reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal proceeding, had no reasonable cause to believe their conduct was unlawful, although in the case or proceedings brought by or on behalf of the corporation, such indemnification is limited to expenses and is not permitted if the individual is adjudged liable to the corporation (unless the Delaware Court of Chancery or the court in which such proceeding was brought determines otherwise in accordance with the DGCL). Section 102 of the Delaware General Corporation Law authorizes a corporation to limit or eliminate its directors' liability to the corporation or its stockholders for monetary damages for breaches of fiduciary duties, other than for (1) breaches of the duty of loyalty; (2) acts or omissions not in good faith or that involve intentional misconduct or knowing violations of law; (3) unlawful payments of dividends, stock purchases or redemptions; or (4) transactions from which a director derives an improper personal benefit. Our certificate of incorporation contains such a provision.

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Our bylaws, which incorporate Section 145 of the DGCL, provides that we will indemnify each director and officer against all claims and expenses resulting from the fact that such person was a director, officer, agent or employee of the registrant. A claimant is eligible for indemnification if the claimant (1) acted in good faith and in a manner that, in the claimant's reasonable belief, was in or not opposed to the best interests of the registrant; or (2) in the case of a criminal proceeding, had no reasonable cause to believe the claimant's conduct was unlawful. This determination will be made by our disinterested directors, our stockholders or independent counsel in accordance with Section 145 of the DGCL.

Section 145 of the DGCL authorizes a corporation to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation against any liability asserted against and incurred by such person in any such capacity, or arising out of such person's status as such. We have obtained liability insurance covering our directors and officers for claims asserted against them or incurred by them in such capacity.

In addition, we have entered into agreements to indemnify our directors and certain of our officers in addition to the indemnification provided for in the certificate of incorporation and bylaws. These agreements, among other things, indemnify our directors and some of our officers for certain expenses (including attorneys fees), judgments, fines and settlement amounts incurred by such person in any action or proceeding, including any action by or in our right, on account of services by that person as a director or officer of CAI International, Inc. or as a director or officer of any of our subsidiaries, or as a director or officer of any other company or enterprise that the person provides services to at our request.

Reference is made to Item 9 for our undertakings with respect to indemnification for liabilities under the Securities Act.

**Item 7. EXEMPTION FROM REGISTRATION CLAIMED**

Not applicable.

**Item 8. EXHIBITS**

<b>Exhibit Number</b>	<b>Description</b>
4.1	CAI International, Inc. 2007 Equity Incentive Plan, as amended (incorporated by reference to Appendix A of the Registrant's definitive proxy statement on Schedule 14A filed with the Commission on April 24, 2009)
5.1	Opinion of Perkins Coie LLP regarding legality of the Common Stock being registered
23.1	Consent of KPMG LLP
23.2	Consent of Perkins Coie (included in opinion filed as Exhibit 5.1)
24.1	Power of Attorney (see Signature Page)

**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. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if total dollar value 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 Commission pursuant to Rule 424(b) (§230.424(b) of this chapter) if, in the aggregate, the changes in volume and price represent not more than 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 (1)(i) and (1)(ii) above do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed by the Registrant pursuant to Section 13 or Section 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 benefits 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 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 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 of 1933, as amended, 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 San Francisco, State of California, on the 10th day of June, 2009.

CAI INTERNATIONAL, INC.

By: /s/ Masaaki Nishibori  
Masaaki (John) Nishibori  
President and Chief Executive Officer

**POWER OF ATTORNEY**

Each person whose individual signature appears below hereby authorizes and appoints Masaaki (John) Nishibori, Hiromitsu Ogawa and Victor Garcia, and each of them, with full power of substitution and full power to act without the other, as his true and lawful attorney-in-fact and agent to act in his name, place and stead and to execute in the name and on behalf of each person, individually and in each capacity stated below, and to file, any and all amendments to this Registration Statement, including any and all post-effective amendments with the Securities and Exchange Commission or any regulatory authority.

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed by the following persons in the capacities indicated below on the 10th day of June, 2009.

<b>Signature</b>	<b>Title</b>
/s/ Masaaki Nishibori	President, Chief Executive Officer and Director (Principal Executive Officer)
Masaaki (John) Nishibori	
/s/ Hiromitsu Ogawa	Chairman and Director
Hiromitsu Ogawa	
/s/ Victor Garcia	Chief Financial Officer (Principal Financial and Accounting Officer)
Victor Garcia	
/s/ Marvin Dennis	Director
Marvin Dennis	
/s/ William Liebeck	Director
William W. Liebeck	
/s/ Gary M. Sawka	Director
Gary M. Sawka	

**INDEX TO EXHIBITS**

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