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NANOMETRICS INC
 Form S-8
 September 03, 2003

As filed with the Securities and Exchange Commission on September 3, 2003
 Registration No. 333-

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

FORM S-8
 REGISTRATION STATEMENT
 Under The Securities Act of 1933

NANOMETRICS INCORPORATED
 (Exact name of Registrant as specified in its charter)

CALIFORNIA
 (State or other jurisdiction of
 incorporation or organization)

94-2276314
 (I.R.S. Employer
 Identification Number)

1550 Buckeye Drive
 Milpitas, California 95035
 (Address of principal executive offices) (Zip code)

NANOMETRICS INCORPORATED
 2003 EMPLOYEE STOCK PURCHASE PLAN
 (Full title of the plan)

John D. Heaton
 Chief Executive Officer
 Nanometrics Incorporated
 1550 Buckeye Drive
 Milpitas, California 95035
 (Name and address of agent for service)

(408) 435-9600
 (Telephone number, including area code, of agent for service)

Copy to:
 Aaron J. Alter, Esq.
 Wilson Sonsini Goodrich & Rosati
 Professional Corporation
 650 Page Mill Road
 Palo Alto, CA 94304
 (650) 493-9300

CALCULATION OF REGISTRATION FEE

Title of Securities to be Registered	Amount to be Registered (1)	Proposed Maximum Offering Price Per Share (2)	Prop Aggre
Common Stock, no par value To be issued under the Nanometrics Incorporated 2003 Employee Stock Purchase Plan.....	750,000	\$7.105	\$

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- (1) This Registration Statement also covers any additional shares of Common Stock that may be offered or issued under the 2003 Employee Stock Purchase Plan as a result of any stock dividends, stock splits, recapitalizations or any other similar transactions.
- (2) Estimated in accordance with Rules 457(h)(1) and 457(c) under the Securities Act of 1933, as amended, solely for the purpose of calculating the registration fee. The computation is based on the average of the high and low prices as reported on The Nasdaq National Market on August 27, 2003, as the price at which the shares will be granted in the future is not currently determinable.

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NANOMETRICS INCORPORATED

REGISTRATION STATEMENT ON FORM S-8

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents and information previously filed with the Securities and Exchange Commission (the "SEC") by Nanometrics Incorporated (the "Company" or the "Registrant") are hereby incorporated by reference in this Registration Statement:

(1) the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2002 filed pursuant to Section 13 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), on March 28, 2003;

(2) the Company's quarterly report on Form 10-Q for the fiscal quarter ended March 31, 2003, filed with the SEC on May 13, 2003;

(3) the Company's quarterly report on Form 10-Q for the fiscal quarter ended June 30, 2003, filed with the SEC on August 11, 2003; and

(4) the description of the Company's Common Stock contained in the Company's Registration Statement on Form 8-A, dated April 29, 1985, filed pursuant to Section 12(g) of the Exchange Act, including any 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 Exchange Act, 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.

None.

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Item 6. Indemnification of Directors and Officers.

Section 317 of the California Corporations Code authorizes a court to award, or a corporation's Board of Directors to grant, indemnity 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. Article V of the Company's Amended and Restated Articles of Incorporation and Article VI of the Company's Bylaws provide for indemnification of its directors, officers, employees and

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other agents to the maximum extent permitted by the California Corporations Code. In addition, the Company has entered into indemnification agreements with its officers and directors.

Item 7. Exemption From Registration Claimed.

Not applicable.

Item 8. Exhibits.

The Exhibits listed on the accompanying Exhibit Index are filed as part hereof, or incorporated by reference into, this registration statement (see Exhibit Index below).

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 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 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 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 the 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, 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

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/s/ Edmond R. Ward
----- Director
Edmond R. Ward

/s/ William G. Oldham
----- Director
William G. Oldham

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EXHIBIT INDEX

Exhibit Number	Description
4.1	Nanometrics Incorporated 2003 Employee Stock Purchase Plan.
5.1	Opinion of Wilson Sonsini Goodrich & Rosati, Professional Corporation, as to legality of securities being registered.
23.1	Independent Auditors' Consent.
23.2	Consent of Wilson Sonsini Goodrich & Rosati, Professional Corporation (contained in Exhibit 5.1).
24.1	Power of Attorney (contained on signature page hereto).