

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

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

DECISIONPOINT SYSTEMS, INC.
(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of
incorporation or organization)

37-1644635

(I.R.S. Employer
Identification No.)

1615 South Congress Avenue, Suite 103
Delray Beach, Florida 33445
(Address of principal executive offices, including zip code)

DecisionPoint Systems, Inc., 2014 Equity Incentive Plan
(Full title of the plans)

Steve Smith
Chief Executive Officer
DecisionPoint Systems, Inc.
1615 South Congress Avenue, Suite 103
Delray Beach, Florida 33445
(561) 900-3723
(Name, Address, Including Zip Code, and Telephone Number, Including Area Code, of Agent For Service)

Copies to:
Donald Figliulo, Esq.
Peter F. Waltz, Esq.
Polsinelli PC
150 N. Riverside Plaza, Suite 3000
Chicago, IL 60606
(312) 819-1900

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer
Non-accelerated filer

Accelerated filer
Smaller reporting company
Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.

Explanatory Note

This Registration Statement on Form S-8 is filed pursuant to General Instruction E to Form S-8 for the purpose of registering an additional 500,000 shares of common stock, par value \$0.001 per share, of DecisionPoint Systems, Inc. (the "Company") which may be issued pursuant to awards under the DecisionPoint Systems, Inc., 2014 Equity Incentive Plan. In accordance with General Instruction E to Form S-8, the Company incorporates herein by reference the contents of the registration statement on Form S-8 filed by the Company with respect to the Plan on July 8, 2021 (Registration No. 333-257771 together with all exhibits filed therewith or incorporated therein by reference to the extent not otherwise amended or superseded by the contents hereof.

PART I
INFORMATION REQUIRED IN THE SECTION 10(A) PROSPECTUS

In accordance with the instructional note to Part I of Form S-8 as promulgated by the Securities and Exchange Commission (the "SEC"), the information specified by Part I, Item 1 of the Form S-8 has been omitted from this Registration Statement.

PART II
INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference

The following documents filed by DecisionPoint Systems, Inc. (“we”, “us”, “our” or the “Company”) with the Securities and Exchange Commission are incorporated by reference into this Registration Statement:

- (a) The Company’s Annual Report on [Form 10-K](#) for the fiscal year ended December 31, 2022, filed with the SEC on March 29, 2023.
- (b) The Company’s Current Report on [Form 8-K](#) filed with the SEC on April 6, 2023.
- (c) The description of the Registrant’s Common Stock which is contained in a registration statement on [Form 8-A](#) filed on May 4, 2022 under the Exchange Act of 1934, as amended (the “Exchange Act”), including any amendment or report filed for the purpose of updating such description.
- (d) All other reports and documents subsequently filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act (other than Current Reports furnished under Item 2.02 or Item 7.01 of Form 8-K and exhibits furnished on such form that relate to such items) on or after the date of this Registration Statement and prior to the filing of a post-effective amendment to this Registration Statement 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 herein and to be a part of this Registration Statement from the date of the filing of such reports and documents. Any statement contained in a document 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 subsequently filed document that also 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 superseded, 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.

II-1

ITEM 6. INDEMNIFICATION OF DIRECTORS AND OFFICERS

Section 145(a) of the General Corporation Law of the State of Delaware (the “DGCL”) provides, in general, that a corporation may indemnify any person who was or is a party to or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation), because he or she is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys’ fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with such action, suit or proceeding, if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the corporation and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful.

Section 145(b) of the DGCL provides, in general, that a corporation may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor because the person is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys’ fees) actually and reasonably incurred by the person in connection with the defense or settlement of such action or suit if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the corporation, except that no indemnification shall be made with respect to any claim, issue or matter as to which he or she shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery or other adjudicating court determines that, despite the adjudication of liability but in view of all of the circumstances of the case, he or she is fairly and reasonably entitled to indemnity for such expenses that the Court of Chancery or other adjudicating court shall deem proper.

Section 145(g) of the DGCL provides, in general, that a corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against such person and incurred by such person in any such capacity, or arising out of his or her status as such, whether or not the corporation would have the power to indemnify the person against such liability under Section 145 of the DGCL.

Additionally, our Certificate of Incorporation eliminates our directors’ liability to the fullest extent permitted under the DGCL. The DGCL provides that directors of a corporation will not be personally liable for monetary damages for breach of their fiduciary duties as directors, except for liability:

- for any transaction from which the director derives an improper personal benefit;
- for any act or omission not in good faith or that involves intentional misconduct or a knowing violation of law;
- for any unlawful payment of dividends or redemption of shares; or
- or any breach of a director’s duty of loyalty to the corporation or its stockholders.

If the DGCL is amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of the Company’s directors will be eliminated or limited to the fullest extent permitted by the DGCL, as so amended.

We maintain a directors’ and officers’ insurance policy pursuant to which our directors and officers are insured against liability for actions taken in their capacities as directors and officers.

ITEM 7. EXEMPTION FROM REGISTRATION CLAIMED

Not applicable.

II-2

ITEM 8. EXHIBITS

| Exhibit Number | Description | Incorporated by Reference | | | |
|----------------|---|---------------------------|-------------|------------------|-------------------|
| | | Form | File Number | Exhibit or Annex | Filing Date |
| 4.1 | Amended and Restated Certificate of Incorporation of DecisionPoint Systems, Inc. | S-1 | 333-245695 | 3.1 | August 13, 2020 |
| 4.2 | Amendment to Amended and Restated Certificate of Incorporation of DecisionPoint Systems, Inc. | 8-K | 001-41376 | 3.1 | December 17, 2021 |
| 4.3 | Amended and Restated Bylaws of DecisionPoint Systems, Inc. | S-1 | 333-245695 | 3.4 | August 13, 2020 |
| 5.1* | Opinion of Polsinelli PC. | | | | |
| 23.1* | Consent of Polsinelli PC (included in Exhibit 5.1). | | | | |
| 23.2* | Consent of Haskell & White LLP, an independent registered public accounting firm. | | | | |
| 24.1* | Power of Attorney (included on the signature page of this Form S-8). | | | | |
| 99.1 | DecisionPoint Systems, Inc. 2014 Equity Incentive Plan, as amended. | S-8 | 333-257771 | 99.1 | July 8, 2021 |
| 99.2 | Amendment to the DecisionPoint Systems, Inc. 2014 Equity Incentive Plan | 8-K | 001-41376 | 10.1 | November 21, 2022 |
| 107* | Fee Table | | | | |

* Filed herewith.

II-3

ITEM 9. UNDERTAKINGS

1. The undersigned registrant hereby undertakes:

(a) 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 the 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 the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of 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) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement.

(iii) 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;

Provided, however, that paragraphs (a)(i) and (a)(ii) do not apply if 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 Section 15(d) of the Exchange Act that are incorporated by reference in the registration statement.

(b) 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 herein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(c) 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.

(d) That, for the purpose of determining liability of the registrant under the Securities Act to any purchaser in the initial distribution of the securities, the undersigned registrant undertakes that in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

(i) Any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424;

(ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant;

(iii) The portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and

(iv) Any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.

2. 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 herein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

3. 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 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 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.

II-4

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 Delray Beach, State of Florida, on this 13 day of April, 2023.

DECISIONPOINT SYSTEMS, INC.

By: /s/ Steve Smith
Name: Steve Smith
Title: Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Steve Smith and Melinda Wohl, and each or either of them, as his or her true and lawful attorneys-in-fact and agents, each with the full power of substitution, for him or her and in their name, place or stead, in any and all capacities, to sign any and all amendments to this Registration Statement (including post-effective amendments), and to sign any registration statement for the same offering covered by this Registration Statement that is to be effective upon filing pursuant to Rule 462(b) promulgated under the Securities Act, and all post-effective amendments thereto, and to file the same, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange 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 connection therewith, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or his, her or their 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 by the following persons in the capacities and on the dates indicated.

| <u>Signature</u> | <u>Title</u> | <u>Date</u> |
|---|--|----------------|
| <u>/s/ Steve Smith</u> Steve Smith | Chief Executive Officer and Director <i>(Principal Executive Officer)</i> | April 13, 2023 |
| <u>/s/ Melinda Wohl</u> Melinda Wohl | Vice President Finance and Administration <i>(Principal Financial and Accounting Officer)</i> | April 13, 2023 |
| <u>/s/ Stanley P. Jaworski</u> Stanley P. Jaworski | Director | April 13, 2023 |
| <u>/s/ Richard Bravman</u> Richard Bravman | Director | April 13, 2023 |
| <u>/s/ Michael N. Taglich</u> Michael N. Taglich | Director | April 13, 2023 |
| <u>/s/ John Guttilla</u> John Guttilla | Director | April 13, 2023 |
| <u>/s/ William M. Cooke</u> William M. Cooke | Director | April 13, 2023 |

II-5



1401 Lawrence Street, Suite 2300, Denver, CO 80202 · (303) 572-9300

April 13, 2023

Board of Directors
DecisionPoint Systems, Inc.
1615 South Congress Avenue, Suite 103
Delray Beach, Florida 33445

Re: DecisionPoint Systems, Inc. -- Registration Statement on Form S-8

Ladies and Gentlemen:

We are acting as counsel to DecisionPoint Systems, Inc., a Delaware corporation (the “**Company**”), in connection with its registration statement on Form S-8 (the “**Registration Statement**”), filed on the date hereof with the Securities and Exchange Commission under the Securities Act of 1933, as amended (the “**Securities Act**”), relating to the proposed offering of up to an aggregate of 500,000 shares of common stock, par value \$0.001 per share, of the Company (the “**Shares**”), issuable pursuant to the Company’s 2014 Equity Incentive Plan (the “**2014 Plan**”). This opinion letter is furnished to you at your request to enable you to fulfill the requirements of Item 601(b)(5) of Regulation S-K, 17 C.F.R. § 229.601(b)(5), in connection with the Registration Statement.

For purposes of this opinion letter, we have examined copies of such agreements, instruments and documents as we have deemed an appropriate basis on which to render the opinions hereinafter expressed. In our examination of the aforesaid documents, we have assumed the genuineness of all signatures, the legal capacity of all natural persons, the accuracy and completeness of all documents submitted to us, the authenticity of all original documents, and the conformity to the authentic original documents of all documents submitted to us as copies (including electronic copies). We have also assumed that the Company has sufficient authorized but unissued and unreserved shares of common stock (or will validly amend the Company’s Amended and Restated Certificate of Incorporation, as amended, to authorize a sufficient number of shares of common stock for issuance under the 2014 Plan prior to the issuance thereof) available for issuance as provided in the Registration Statement. As to all matters of fact, we have relied on the representations and statements of fact made in the documents so reviewed, and we have not independently established the facts so relied on. This opinion letter is given, and all statements herein are made, in the context of the foregoing.

This opinion letter is based, as to matters of law, solely on the Delaware General Corporation Law, as amended. We express no opinion herein as to any other statutes, rules, or regulations.

Based upon, subject to, and limited by the foregoing, we are of the opinion that following (i) effectiveness of the Registration Statement, (ii) issuance of the Shares pursuant to the terms of the 2014 Plan, and (iii) receipt by the Company of the consideration, if any, for the Shares specified in the applicable resolutions of the Board of Directors or a duly authorized committee thereof, the 2014 Plan, and any underlying award agreements or letters, the Shares will be validly issued, fully paid, and nonassessable.

This opinion has been prepared for use in connection with the Registration Statement. We assume no obligation to advise you of any changes in the foregoing subsequent to the effective date of the Registration Statement.

We hereby consent to the filing of this opinion letter as Exhibit 5.1 to the Registration Statement. In giving this consent, we do not thereby admit that we are an “expert” within the meaning of the Securities Act.

Very truly yours,

/s/ Polsinelli PC
POL SINELLI PC

polsinelli.com

Atlanta Boston Chicago Dallas Denver Houston Kansas City Los Angeles Miami Nashville New York Phoenix St. Louis San Francisco Seattle Silicon Valley Washington, D.C.
Wilmington
Polsinelli PC, Polsinelli LLP in California

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in this Registration Statement on Form S-8 of DecisionPoint Systems, Inc. (the "Company"), pertaining to the DecisionPoint Systems, Inc. 2014 Equity Incentive Plan, of our report dated March 29, 2023, with respect to our audits of the Company's consolidated financial statements as of December 31, 2022 and 2021, and for each of the years then ended, included in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2022.

/s/ Haskell & White LLP

HASKELL & WHITE LLP

Irvine, California
April 13, 2023

Calculation of Filing Fee Tables
Form S-8
 (Form Type)
DecisionPoint Systems, Inc.
 (Exact name of Registrant as Specified in its Charter)

Table 1 – Newly Registered Securities

| | Security Type | Security Class Title | Fee Calculation or Carry Forward Rule | Amount Registered ⁽¹⁾ | Proposed Maximum Offering Price Per Unit | Maximum Aggregate Offering Price | Fee Rate | Amount of Registration Fee |
|--|---------------|--|---------------------------------------|----------------------------------|--|----------------------------------|-----------|----------------------------|
| Fees to Be Paid | Equity | Common Stock, par value \$0.001 per share, to be issued pursuant to the DecisionPoint Systems, Inc. 2014 Equity Incentive Plan, as amended | Rule 457(c) and Rule 457(h) | 500,000 ⁽²⁾ | \$ 5.715 ⁽³⁾ | \$ 2,857,500 | 0.0001102 | \$ 314.90 |
| Total Offering Amount/Registration Fee | | | | | | \$ 2,857,500 | | \$ 314.90 |
| Total Fees Previously Paid | | | | | | | | N/A |
| Total Fee Offsets | | | | | | | | N/A |
| Net Fees Due | | | | | | | | \$ 314.90 |

- Pursuant to Rule 416(a) promulgated under the Securities Act of 1933, as amended (the “*Securities Act*”), this Registration Statement shall also cover any additional shares of common stock, as the case may be, that become issuable under the plans set forth herein by reason of any stock dividend, stock split, recapitalization, or other similar transaction effected that results in an increase to the number of outstanding shares of Registrant’s common stock.
- Represents the additional shares of common stock, par value \$0.001 per share (the “*Common Stock*”), available for issuance under the 2014 Equity Incentive Plan (the “*2014 Plan*”) pursuant to the amendment to the 2014 Plan, dated November 17, 2022.
- Solely for the purposes of calculating the registration fee and based on the average of the high and low prices of the Registrant’s Common Stock as reported on the NYSE American on April 10, 2023, which date is within five business days prior to the filing of this Registration Statement.