

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

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

Neuronetics, Inc.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

33-1051425
(IRS employer
identification number)

3222 Phoenixville Pike
Malvern, Pennsylvania
(Address of Principal Executive Offices)

19355
(Zip Code)

2003 Stock Incentive Plan
2018 Equity Incentive Plan
2018 Employee Stock Purchase Plan
(Full titles of the plans)

Chris Thatcher
President and Chief Executive Officer
Neuronetics, Inc.
3222 Phoenixville Pike
Malvern, Pennsylvania 19355
(610) 640-4202

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

Copies to:

Divakar Gupta
Joshua A. Kaufman
Brandon Fenn
Cooley LLP
1114 Avenue of the Americas
New York, New York 10036
(212) 479-6000

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	<input type="checkbox"/>		Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input checked="" type="checkbox"/>	(Do not check if a smaller reporting company)	Smaller reporting company	<input type="checkbox"/>
			Emerging growth company	<input checked="" type="checkbox"/>

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.

CALCULATION OF REGISTRATION FEE

Title of Securities To Be Registered	Amount To Be Registered(1)	Proposed Maximum Offering Price Per Share	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee

2003 Stock Incentive Plan (Common stock, \$0.01 par value per share)	2,854,677 ⁽²⁾	\$3.00 ⁽⁵⁾	\$8,564,031.00 ⁽⁵⁾	\$1,066.22
2018 Equity Incentive Plan (Common stock, \$0.01 par value per share)	1,381,904 ⁽³⁾	\$26.12 ⁽⁶⁾	\$36,095,332.48 ⁽⁶⁾	\$4,493.87
2018 Employee Stock Purchase Plan (Common stock, \$0.01 par value per share)	243,699 ⁽⁴⁾	\$22.20 ⁽⁷⁾	\$5,410,605.20 ⁽⁷⁾	\$673.62
TOTAL	4,480,280	—	\$50,069,968.68	\$6,233.71

- (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 common stock that become issuable under the above-named plans by reason of any stock dividend, stock split, recapitalization or any other similar transaction effected without receipt of consideration which results in an increase in the number of outstanding shares of common stock, par value \$0.01 per share (the “**Common Stock**”) of Neuronetics, Inc.’s (the “**Registrant**”).
- (2) Represents shares of the Common Stock reserved for issuance upon the exercise of outstanding options granted under the Registrant’s 2003 Stock Incentive Plan, as amended (the “**2003 Plan**”). No further option grants will be made under the 2003 Plan following the date on which grants may first be made under the 2018 Equity Incentive Plan (the “**2018 Plan**”), and any shares remaining available for future grants, plus any shares underlying outstanding options that terminate by expiration, forfeiture, cancellation or otherwise without the issuance of such shares, have been allocated to the Registrant’s 2018 Plan.
- (3) Represents shares of Common Stock reserved for future grant under the 2018 Plan. To the extent outstanding awards under the 2003 Plan terminate by expiration, forfeiture, cancellation or otherwise without the issuance of such shares, the shares of Common Stock subject to such awards instead will be available for future issuance under the 2018 Plan. The 2018 Plan also provides that an additional number of shares will automatically be added annually to the shares authorized for issuance under the 2018 Plan on January 1st of each year, for a period of not more than 10 years, commencing on January 1, 2019 and ending on (and including) January 1, 2028, in an amount equal to the lesser of (a) 4% of the total number of shares of Common Stock outstanding on December 31st of the preceding calendar year and (b) a number of shares of Common Stock designated by action of the Registrant’s board of directors prior to the first day of any calendar year.
- (4) Represents shares of the Common Stock reserved for issuance under the Registrant’s 2018 Employee Stock Purchase Plan (the “**ESPP**”). The ESPP provides that an additional number of shares will automatically be added annually to the shares authorized for issuance under the ESPP on January 1, from 2019 until January 1, 2028. The number of shares added each year will be equal to the lesser of: (a) 1% of the total number of shares of the Registrant’s capital stock outstanding on December 31 of the preceding calendar year; (b) 487,399 shares of Common Stock and (c) a number of shares of Common Stock designated by action of the Registrant’s board of directors prior to the first day of any calendar year.
- (5) Estimated pursuant to Rule 457(h) solely for the purpose of calculating the registration fee. The proposed maximum offering price per share and proposed maximum aggregate offering price are calculated using the weighted-average exercise price for such shares.
- (6) Estimated pursuant to Rule 457(h) solely for the purpose of calculating the registration fee. The proposed maximum offering price per share and proposed maximum aggregate offering price are calculated using the average of the high and low sale prices per share of the Registrant’s Common Stock as reported by The NASDAQ Stock Market LLC on July 20, 2018.
- (7) Estimated pursuant to Rule 457(h) solely for the purpose of calculating the registration fee. The proposed maximum offering price per share and proposed maximum aggregate offering price are calculated using the average of the high and low sale prices per share of the Registrant’s Common Stock as reported by The NASDAQ Stock Market LLC on July 20 2018, multiplied by 85%, which is the percentage of the price per share applicable to purchases under the ESPP.

PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

The information called for by Part I of Form S-8 is omitted from this Registration Statement in accordance with Rule 428 of the Securities Act and the instructions to Form S-8. In accordance with the rules and regulations of the Securities and Exchange Commission (the “**Commission**”) and the instructions to Form S-8, such documents are not being filed with the Commission either as part of this Registration Statement or as prospectuses or prospectus supplements pursuant to Rule 424.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

Neuronetics, Inc. (the “**Registrant**”) hereby incorporates by reference into this Registration Statement the following documents filed by it with the Commission:

- (a) the Registrant’s prospectus filed on June 29, 2018 pursuant to Rule 424(b), dated June 27, 2018, under the Securities Act relating to the Registration Statement on Form S-1, as amended (File No. 333-225307), which contains audited financial statements for the Registrant’s latest fiscal year, for which such statements have been filed; and
- (b) the description of the Common Stock contained in the Registrant’s Registration Statement on Form 8-A (File No. 001-38546) filed with the Commission on June 19, 2018, under Section 12(b) of the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”), including any amendments or reports filed for the purpose of updating such description.

All documents filed by the Registrant pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act subsequent to the filing of this Registration Statement and prior to the filing of a post-effective amendment which indicates that all securities offered hereby have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference into this Registration Statement and to be a part hereof from the date of filing such documents, except as to specific sections of such documents as set forth therein. 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 herein or in any subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not constitute a part of this Registration Statement, except as so modified or superseded.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

Not applicable.

Item 6. Indemnification of Directors and Officers.

We are incorporated under the laws of the State of Delaware. Section 102 of the Delaware General Corporation Law permits a corporation to eliminate the personal liability of directors of a corporation to the corporation or its stockholders for monetary damages for a breach of fiduciary duty as a director, except where the director breached his duty of loyalty, failed to act in good faith, engaged in intentional misconduct or knowingly violated a law, authorized the payment of a dividend or approved a stock repurchase in violation of Delaware corporate law or obtained an improper personal benefit.

Section 145 of the Delaware General Corporation Law provides that a corporation has the power to indemnify a director, officer, employee or agent of the corporation and certain other persons serving at the request of the corporation in related capacities against expenses (including attorneys’ fees), judgments, fines and amounts paid in settlements actually and reasonably incurred by the person in connection with an action, suit or proceeding to which he is or is threatened to be made a party by reason of such position, if such person acted in good faith and in a manner he reasonably believed to be in or not

opposed to the best interests of the corporation, and, in any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful, except that, in the case of actions brought by or in the right of the corporation, no indemnification shall be made with respect to any claim, issue or matter as to which such person 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, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

As permitted by the Delaware General Corporation Law, our amended and restated certificate of incorporation and amended and restated bylaws provide that: (i) we are required to indemnify our directors to the fullest extent permitted by the Delaware General Corporation Law; (ii) we may, in our discretion, indemnify our officers, employees and agents as set forth in the Delaware General Corporation Law; (iii) we are required, upon satisfaction of certain conditions, to advance all expenses incurred by our directors in connection with certain legal proceedings; (iv) the rights conferred in the bylaws are not exclusive; and (v) we are authorized to enter into indemnification agreements with our directors, officers, employees and agents.

We have entered into indemnification agreements with each of our directors and executive officers that require us to indemnify them against expenses, judgments, fines, settlements and other amounts that any such person becomes legally obligated to pay (including with respect to a derivative action) in connection with any proceeding, whether actual or threatened, to which such person may be made a party by reason of the fact that such person is or was a director or officer of us or any of our affiliates, provided such person acted in good faith and in a manner such person reasonably believed to be in, or not opposed to, our best interests. The indemnification agreements also set forth certain procedures that will apply in the event of a claim for indemnification thereunder. At present, no litigation or proceeding is pending that involves any of our directors or officers regarding which indemnification is sought, nor are we aware of any threatened litigation that may result in claims for indemnification.

We maintain a directors' and officers' liability insurance policy. The policy insures directors and officers against unindemnified losses arising from certain wrongful acts in their capacities as directors and officers and reimburses us for those losses for which we have lawfully indemnified the directors and officers. The policy contains various exclusions.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

The exhibits to this Registration Statement are listed below:

Exhibit Number	Description	Incorporated by Reference			
		Schedule Form	File No.	Exhibit	Filing Date
4.1	Ninth Amended and Restated Certificate of Incorporation of the Registrant.	8-K	001-38546	3.1	July 6, 2018
4.2	Second Amended and Restated Bylaws of the Registrant.	8-K	001-38546	3.2	July 6, 2018
4.3	Specimen Stock Certificate evidencing shares of common stock of the Registrant.	S-1/A	333-225307	4.1	June 15, 2018
5.1*	Opinion of Cooley LLP.				
23.1*	Consent of KPMG LLP, independent registered public accounting firm.				
23.2*	Consent of Cooley LLP (included in Exhibit 5.1).				

24.1* [Power of Attorney \(included on signature page\).](#)

99.1	Amended and Restated 2003 Stock Incentive Plan of the Registrant, as amended.	S-1	333-225307	10.9	May 31, 2018
99.2	2018 Equity Incentive Plan of the Registrant.	S-1	333-225307	10.10	May 31, 2018
99.3	2018 Employee Stock Purchase Plan of the Registrant.	S-1	333-225307	10.11	May 31, 2018
99.4	Form of Non-Qualified Stock Option Agreement for the Amended and Restated 2003 Stock Incentive Plan, as amended, of the Registrant.	S-1	333-225307	10.13	May 31, 2018
99.5	Form of Incentive Stock Option Agreement for the Amended and Restated 2003 Stock Incentive Plan, as amended, of the Registrant.	S-1	333-225307	10.14	May 31, 2018
99.6	Forms of grant notice, stock option agreement and notice of exercise under the 2018 Equity Incentive Plan.	S-1	333-225307	10.15	May 31, 2018
99.7	Forms of restricted stock unit grant notice and award agreement under the 2018 Equity Incentive Plan.	S-1	333-225307	10.16	May 31, 2018

* Filed herewith

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 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; and

(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)(1)(i) and (A)(1)(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.

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 herein, 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 herein, 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.

Divakar Gupta
+1 212 479 6474
dgupta@cooley.com

July 25, 2018
Neuronetics, Inc.
3222 Phoenixville Pike
Malvern, Pennsylvania 19355

Re: Registration on Form S-8

Ladies and Gentlemen:

We have acted as counsel to Neuronetics, Inc., a Delaware corporation (the "**Company**"), and you have requested our opinion in connection with the filing of a registration statement on Form S-8 (the "**Registration Statement**") with the Securities and Exchange Commission covering the offering of up to 4,480,280 shares of common stock, par value \$0.01 per share, consisting of (i) 2,854,677 shares of common stock (the "**2003 SIP Shares**") issuable pursuant to the Company's 2003 Stock Incentive Plan, as amended, (ii) 1,381,904 shares of common stock (the "**2018 EIP Shares**") issuable pursuant to the Company's 2018 Equity Incentive Plan, (iii) 243,699 shares of common stock (the "**ESPP Shares**", together with the 2003 SIP Shares and 2018 EIP Shares, the "**Shares**") issuable pursuant to the Company's 2018 Employee Stock Purchase Plan (together with the Company's 2003 Stock Incentive Plan and 2018 Equity Incentive Plan, the "**Plans**").

In connection with this opinion, we have examined and relied upon (a) the Registration Statement and related prospectuses included therein, (b) the Company's Ninth Amended and Restated Certificate of Incorporation and Second Amended and Restated Bylaws, each as currently in effect, (c) the Plans and (d) such other records, documents, certificates, memoranda, and other instruments as we deem necessary or appropriate to enable us to render the opinion expressed below. As to certain factual matters, we have relied upon a certificate of an officer of the Company and have not sought independently to verify such matters. We have assumed the genuineness and authenticity of all documents submitted to us as originals and the conformity to originals of all documents submitted to us as copies thereof, and we have assumed the due execution and delivery of all documents where due execution and delivery are prerequisite to the effectiveness thereof.

Our opinion is expressed only with respect to the General Corporation Law of the State of Delaware. We express no opinion to the extent that any other laws are applicable to the subject matter hereof and express no opinion and provide no assurance as to compliance with any federal or state securities law, rule or regulation.

On the basis of the foregoing, and in reliance thereon, we are of the opinion that the Shares, when sold and issued in accordance with the Plans, the Registration Statement and related Prospectuses, will be validly issued, fully paid, and nonassessable (except as to shares issued pursuant to certain deferred payment arrangements, which will be fully paid and nonassessable when such deferred payments are made in full).

Cooley LLP 1114 Avenue of the Americas New York, NY 10036
t: (212) 479-6000 f: (212) 479-6275 cooley.com



We consent to the filing of this opinion as an exhibit to the Registration Statement.

Sincerely,

COOLEY LLP

By: /s/ Divakar Gupta

Divakar Gupta

Cooley LLP 1114 Avenue of the Americas New York, NY 10036
t: (212) 479-6000 f: (212) 479-6275 cooley.com

Consent of Independent Registered Public Accounting Firm

The Board of Directors
Neuronetics, Inc.:

We consent to the use of our report dated March 16, 2018, except for the recapitalization described in Note 2, as to which the date is June 14, 2018, with respect to the balance sheets of Neuronetics, Inc. as of December 31, 2016 and 2017 and the related statements of operations, changes in convertible preferred stock and stockholders' deficit, and cash flows for the years then ended, and the related notes (collectively the "financial statements"), incorporated herein by reference.

/s/ KPMG LLP

Philadelphia, Pennsylvania
July 25, 2018