

# VMWARE, INC.

## **FORM 8-K** (Current report filing)

Filed 09/12/08 for the Period Ending 09/10/08

Address	3401 HILLVIEW AVENUE PALO ALTO, CA, 94304
Telephone	(650) 427-5000
CIK	0001124610
Symbol	VMW
SIC Code	7372 - Services-Prepackaged Software
Industry	IT Services & Consulting
Sector	Technology
Fiscal Year	01/31

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

**FORM 8-K**

**CURRENT REPORT  
PURSUANT TO SECTION 13 OR 15(d)  
OF THE SECURITIES EXCHANGE ACT OF 1934**

Date of report (Date of earliest event reported): September 10, 2008

**VMWARE, INC.**  
*(Exact name of registrant as specified in its charter)*

**Delaware**  
*(State or Other Jurisdiction of Incorporation)*

**001-33622**  
*(Commission File Number)*

**94-3292913**  
*(IRS Employer Identification Number)*

**3401 Hillview Avenue, Palo Alto, CA**  
*(Address of Principal Executive Offices)*

**94304**  
*(Zip code)*

Registrant's telephone number, including area code: (650) 427-5000

**N/A**  
*(Former Name or Former Address, if changed since last report)*

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
  - ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
  - ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
  - ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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**Item 5.02** **Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.**

(c) Compensation of President and Chief Executive Officer

On July 10, 2008, VMware, Inc. (the “Company”) filed a Form 8-K disclosing the appointment of Paul Maritz as the Company’s President and Chief Executive Officer. Such Form 8-K filing is amended to disclose that on September 10, 2008, the Compensation and Corporate Governance Committee (the “Committee”) of the Company’s Board of Directors approved certain compensation arrangements for Mr. Maritz. Mr. Maritz’s annual base salary was set at \$750,000 per year. The Committee made Mr. Maritz eligible for a cash bonus award for 2008, with a target bonus equal to 100% of his base salary. The bonus amount will be pro-rated from the date of Mr. Maritz’s appointment through the end of 2008. Mr. Maritz’s bonus payment will be determined in the Committee’s discretion based upon the achievement of corporate financial, strategic planning and operational goals. The Committee also granted Mr. Maritz an option to purchase 1,000,000 shares of the Company’s Class A common stock, with a per share exercise price of \$33.95, equal to the closing sale price of the Company’s common stock on September 10, 2008, the date of grant. One-quarter of the stock options will vest on the first anniversary of the grant date and the remaining shares will vest in equal monthly installments over the following three years, subject to Mr. Maritz’s continued service.

A copy of the letter agreement between the Company and Mr. Maritz is attached hereto as exhibit 10.1 and is incorporated herein by reference.

(e) Compensation arrangements of Named Executive Officers

On September 10, 2008, the Committee granted restricted stock unit (“RSU”) awards of 100,000 RSU’s to Carl M. Eschenbach, Executive Vice President of Worldwide Field Operations, and 10,000 RSU’s to Rashmi Garde, Vice President and General Counsel. The RSUs vest in four equal annual installments commencing with the initial vesting date of September 1, 2009. Vesting is subject to continued service on the part of each executive.

**Item 9.01** **Financial Statements and Exhibits.**

(d) Exhibits.

Exhibit  
Number

10.1	Letter Agreement between VMware, Inc. and Paul Maritz dated September 11, 2008
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## SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Date: September 12, 2008

VMWARE, INC.

By: /s/ Rashmi Garde

Rashmi Garde

Vice President and General Counsel

[VMware, Inc. letterhead]

September 11, 2008

Paul Maritz  
3401 Hillview Ave  
Palo Alto, CA 94304

Dear Paul,

We are pleased to confirm the terms and conditions of your employment with VMware, Inc. (the "Company") as President and Chief Executive Officer, which commenced on July 8, 2008. Your annual salary of \$750,000 will be paid semi-monthly in accordance with the Company's normal payroll procedures. You will be eligible to participate in the Company's benefit plans and programs available to our full-time regular employees.

Currently, you are eligible for an annualized target bonus of \$750,000, pro-rated from your date of employment to the end of the fiscal year. Eligibility and the amount of the bonus will be based upon VMware's financial performance and achievement of goals and objectives for the bonus period as determined by the Compensation and Corporate Governance Committee (the "Committee") of the Board of Directors.

The Committee has granted you an option to purchase 1,000,000 shares of VMware Class A common stock. The terms and conditions of the option granted to you are in accordance with the applicable VMware stock plan and stock option agreement.

You should be aware that your employment with the Company is for no specified period and constitutes at will employment. As a result, you are free to resign at any time, for any reason or for no reason. Similarly, the Company is free to conclude its employment relationship with you at any time, with or without cause, and with or without notice.

You agree that, during your employment with the Company, you will not engage in any other employment, occupation, consulting or other business activity directly related to the business in which the Company is now involved or becomes involved during your employment, nor will you engage in any other activities that conflict with your obligations to the Company.

All employees are required to submit verification of their legal right to work in the U.S. Also, all employees must sign our standard employee agreement which covers non-compensatory matters such as confidentiality and the assignment of patent rights to any invention made during your employment at VMware. As a VMware employee, you will be expected to abide by company rules and regulations.

This letter, along with the standard employee agreement, contains all of the terms, promises, representations, and understandings between the parties regarding these matters prior to the date hereof. To indicate your acceptance of the terms and conditions set forth in this letter, please sign and date it in the space provided below and return it to Betsy Sutter, VP, Human Resources. A duplicate original is enclosed for your records.

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This letter may not be modified or amended except by a written agreement, signed by an officer of the Company and by you.

We are pleased to have you at VMware.

Sincerely,

/s/ Joseph M. Tucci

Joseph M. Tucci

Chairman of the Board of Directors

ACCEPTED AND AGREED TO this 12<sup>th</sup> day of September, 2008.

/s/ Paul Maritz

Paul Maritz