

# VMWARE, INC.

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

Filed 08/29/08 for the Period Ending 08/25/08

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

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**FORM 8-K**

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

**Date of report (Date of earliest event reported): August 25, 2008**

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**VMWARE, INC.**

*(Exact name of registrant as specified in its charter)*

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**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)

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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.**

**(e) Compensation arrangements of certain officers**

On August 25, 2008, VMware, Inc. (the “Company”) entered into an agreement (the “Letter Agreement”) with Diane Greene, the Company’s former President and Chief Executive Officer, pursuant to which the Company agreed to pay Ms. Greene \$400,000 (the “Payment”) in consideration of a release from Ms. Greene of any claims against the Company arising in connection with the Employment Agreement dated July 26, 2007 between the Company and Ms. Greene and filed as an exhibit to VMware’s Form 10-Q for the period ended June 30, 2007 (the “Employment Agreement”).

The Employment Agreement had provided for Ms. Greene to receive a \$750,000 annual salary and provided for an annual target bonus amount of \$750,000. Ms. Greene received regular salary payments pursuant to the Employment Agreement through her last day of employment with VMware on August 6, 2008 but did not receive a bonus payment under the Company’s 2008 performance-based bonus plan for executive officers which does not allow for pro rata or mid-year payouts to departing officers. The Payment to Ms. Greene was in final settlement of any and all claims under the Employment Agreement.

A copy of the Letter Agreement is attached hereto as exhibit 10.1 and is incorporated herein by reference.

**Item 9.01 Financial Statements and Exhibits.**

**(d) Exhibits.**

**Exhibit  
Number**

10.1 Letter Agreement and Release with Diane Greene entered into on August 25, 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: August 29, 2008

VMWARE, INC.

By: /s/ Rashmi Garde

Rashmi Garde

Vice President and General Counsel



Tel: 650-427-5000

Fax: 650-427-5001

www.vmware.com

August 18, 2008

Diane Greene

Dear Diane,

VMware is pleased to offer you a final payment of \$400,000 in light of your mid-year departure from the Company. It is the desire of the Compensation and Corporate Governance Committee (and Board) to recognize your contribution to VMware's performance and progress, and to offer this payment as final settlement of all wages and other payments owed to you under your Employment Agreement (dated 7/26/07).

We are distinguishing this from a pro rata bonus payment, since your Employment Agreement does not provide for a mid-year bonus payment, and the annual NEO bonus plan approved by the Committee (in February) expressly excludes midyear and pro rata bonus payments.

In consideration of the \$400,000 payment, you agree to release, waive and discharge VMware, Inc., its employees, officers, directors, shareholders, related companies, predecessor and/or subsidiary companies, successors and assigns ("Releasees") from all claims, suits, debts, liabilities, promises or causes of action, known or unknown, arising from or in any way related to your Employment Agreement. You expressly waive any rights under section 1542 of the California Civil Code which provides: "A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

You agree that Releasees have paid you all salary, wages, bonuses, accrued vacation, benefits, severance, stock, stock options and any other benefits and compensation due to you under the Employment Agreement.

Please acknowledge your agreement with this letter agreement and release by signing below. A check in the amount of \$400,000, less applicable withholdings and deductions, will be delivered to you within 5 business days of VMware's receipt of a signed original of this letter. Please note that the payment will be disclosed in our public filings as a payment made to you in connection with your departure in light of your service to VMware.

Very Truly Yours,

/s/ Betsy Sutter

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Betsy Sutter

VP, Human Resources

I agree to the terms of this letter agreement and release.

/s/ Diane Greene

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Diane Greene

Received August 25, 2008