
UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

FORM S-8

REGISTRATION STATEMENT

UNDER
THE SECURITIES ACT OF 1933

Everspin Technologies, Inc.
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

26-2640654
(I.R.S. Employer
Identification Number)

5670 W. Chandler Blvd., Suite 130
Chandler, Arizona 85226
(Address of principal executive offices, including zip code)

Everspin Technologies, Inc. Amended and Restated 2016 Equity Incentive Plan
Everspin Technologies, Inc. 2016 Employee Stock Purchase Plan
(Full title of the plan)

Anuj Aggarwal
Chief Financial Officer
Everspin Technologies, Inc.
5670 W. Chandler Blvd., Suite 130
Chandler, Arizona 85226
(480) 347-1111
(Name, address and telephone number, including area code, of agent for service)

With a copy to:
Matthew Hemington
Allison Pang
Cooley LLP
3175 Hanover Street
Palo Alto, CA 94304
(650) 843-5000

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

Everspin Technologies, Inc. (the “Registrant”) is filing this Registration Statement on Form S-8 for the purpose of registering (a) an additional 632,414 shares of the Registrant’s common stock, par value \$0.0001 per share (“Common Stock”), issuable to eligible persons under the Everspin Technologies, Inc. Amended and Restated 2016 Equity Incentive Plan, which Common Stock is in addition to the shares of Common Stock registered on the Registrant’s Form S-8 filed on [October 7, 2016 \(File No. 333-214018\)](#), [August 14, 2017 \(File No. 333-219938\)](#), [May 23, 2018 \(File No. 333-225119\)](#), [March 15, 2019 \(File No. 333-230349\)](#), [March 13, 2020 \(File No. 333-237146\)](#), [March 4, 2021 \(File No. 333-253884\)](#), [August 13, 2021 \(File No. 333-258794\)](#), [March 9, 2022 \(File No. 333-263404\)](#), and [March 2, 2023 \(File No. 333-270242\)](#) (collectively, the “Prior Registration Statements”), and (b) an additional 210,804 shares of Common Stock issuable to eligible persons under the Everspin Technologies, Inc. 2016 Employee Stock Purchase Plan, which Common Stock is in addition to the shares of Common Stock registered on the Prior Registration Statements. Accordingly, pursuant to General Instruction E to Form S-8, the contents of the Prior Registration Statements are incorporated by reference in this registration statement.

PART II INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents filed by the Registrant with the Securities and Exchange Commission (the “SEC”) are incorporated by reference into this registration statement:

1. The Registrant’s Annual Report on [Form 10-K \(the “Form 10-K”\) for the year ended December 31, 2023, filed with the SEC on February 29, 2024](#), including the information in the Registrant’s proxy statement for its 2024 Annual Meeting of Stockholders to be filed with the SEC and specifically incorporated by reference in the Form 10-K.
2. The description of the Common Stock contained in the Registrant’s Registration Statement on [Form 8-A filed with the SEC on September 28, 2016 \(File No. 0001-37900\)](#) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), including any amendment or report filed for the purpose of updating such description, including Exhibit 4.4 to the Form 10-K.

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 8. Exhibits.

Exhibit Number	Description	Incorporation By Reference			
		Form	File Number	Exhibit	Filing Date
4.1	Amended and Restated Certificate of Incorporation	8-K	001-37900	3.1	10/13/2016
4.1.1	Amendment to Amended and Restated Certificate of Incorporation	8-K	001-37900	3.1	5/22/2019
4.1.2	Amendment to Amended and Restated Certificate of Incorporation	8-K	001-37900	3.1	5/27/2020
4.1.3	Amendment to Amended and Restated Certificate of Incorporation	8-K	001-37900	3.1	5/25/2023
4.2	Amended and Restated Bylaws	8-K	001-37900	3.2	5/22/2019
4.3	Form of Common Stock Certificate of the Registrant	S-1	333-213569	4.1	9/09/2016
5.1*	Opinion of Cooley LLP				
23.1*	Consent of Ernst & Young LLP, independent registered public accounting firm				
23.2*	Consent of Cooley LLP (included in Exhibit 5.1)				
24.1*	Power of Attorney (included on the signature page of this registration statement)				
99.1	Everspin Technologies, Inc. Amended and Restated 2016 Equity Incentive Plan	8-K	001-37900	10.1	5/22/2018
99.2	First Amendment to Everspin Technologies, Inc. Amended and Restated 2016 Equity Incentive Plan	8-K	001-37900	10.1	5/25/2021
99.3	Everspin Technologies, Inc. 2016 Employee Stock Purchase Plan	S-1/A	333-213569	10.4	9/26/2016
107*	Filing Fee Table				

* Filed herewith

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, 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 Chandler, State of Arizona, on February 29, 2024.

EVERSPIN TECHNOLOGIES, INC.

By: /s/ Sanjeev Aggarwal
Name: Sanjeev Aggarwal
Title: Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Sanjeev Aggarwal and Anuj Aggarwal, and each one of them, as his true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him and in his name, place, and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement, and to file the same, with all exhibits thereto and other documents in connection therewith, with the SEC, 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 might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
<u>/s/ Sanjeev Aggarwal</u> Sanjeev Aggarwal	Chief Executive Officer and Director (Principal Executive Officer)	February 29, 2024
<u>/s/ Anuj Aggarwal</u> Anuj Aggarwal	Chief Financial Officer (Principal Financial and Accounting Officer)	February 29, 2024
<u>/s/ Darin G. Billerbeck</u> Darin G. Billerbeck	Chairman of the Board	February 29, 2024
<u>/s/ Lawrence G. Finch</u> Lawrence G. Finch	Director	February 29, 2024
<u>/s/ Geoff Ribar</u> Geoff Ribar	Director	February 29, 2024
<u>/s/ Tara Long</u> Tara Long	Director	February 29, 2024
<u>/s/ Glen Hawk</u> Glen Hawk	Director	February 29, 2024
<u>/s/ Douglas Mitchell</u> Douglas Mitchell	Director	February 29, 2024



Matthew B. Hemington
+1 650 843 5062
hemingtonmb@cooley.com

February 29, 2024

Everspin Technologies, Inc.
5670 W. Chandler Blvd.
Suite 130
Chandler, AZ 85226

Re: Registration on Form S-8

Ladies and Gentlemen:

We have acted as counsel to Everspin Technologies, Inc., a Delaware corporation (the “**Company**”), in connection with the filing by the Company of a Registration Statement on Form S-8 (the “**Registration Statement**”) with the Securities and Exchange Commission (the “**Commission**”) covering the offering of up to 843,218 shares (the “**Shares**”) of the Company’s common stock, par value \$0.0001 per share (“**Common Stock**”), consisting of (a) 632,414 shares of Common Stock issuable pursuant to the Company’s Amended and Restated 2016 Equity Incentive Plan (the “**EIP**”), and (b) 210,804 shares of Common Stock issuable pursuant to the Company’s 2016 Employee Stock Purchase Plan (together with the EIP, the “**Plans**”).

In connection with this opinion, we have examined and relied upon (a) the Registration Statement and the related prospectuses, (b) the Plans, (c) the Company’s certificate of incorporation and bylaws, each as currently in effect, and (d) such other records, documents, opinions, certificates, memoranda, and instruments as in our judgment are necessary or appropriate to enable us to render the opinion expressed below. We have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals, the conformity to originals of all documents submitted to us as copies, the accuracy, completeness and authenticity of certificates of public officials, and the due authorization, execution and delivery of all documents by all persons other than the Company where authorization, execution and delivery are prerequisites to the effectiveness thereof. As to certain factual matters, we have relied upon a certificate of an officer of the Company and have not independently verified such matters.

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 the related prospectuses, will be validly issued, fully paid, and nonassessable (except as to shares issued pursuant to deferred payment arrangements, which will be fully paid and nonassessable when such deferred payments are made in full).

Cooley LLP 3175 Hanover Street Palo Alto, CA 94304-1130
t: (650) 843-5000 f: (650) 849-7400 cooley.com



This opinion is limited to the matters expressly set forth in this letter, and no opinion should be implied, or may be inferred, beyond the matters expressly stated. This opinion speaks only as to law and facts in effect or existing as of the date hereof and we have no obligation or responsibility to update or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention or any changes in law that may hereafter occur.

We consent to the filing of this opinion as an exhibit to the Registration Statement. In giving such consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act of 1933, as amended, or the rules and regulations of the Commission thereunder.

Sincerely,

COOLEY LLP

By: /s/ Matthew B. Hemington
Matthew B. Hemington

Cooley LLP 3175 Hanover Street Palo Alto, CA 94304-1130
t: (650) 843-5000 f: (650) 849-7400 cooley.com

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in the Registration Statement (Form S-8) pertaining to the Everspin Technologies, Inc. Amended and Restated 2016 Equity Incentive Plan and the Everspin Technologies, Inc. 2016 Employee Stock Purchase Plan of our report dated February 29, 2024, with respect to the financial statements of Everspin Technologies, Inc. included in its Annual Report (Form 10-K) for the year ended December 31, 2023, filed with the Securities and Exchange Commission.

/s/ Ernst & Young LLP

Phoenix, Arizona
February 29, 2024

Calculation of Filing Fee Tables

Form S-8
(Form Type)

Everspin Technologies, Inc.
(Exact name of Registrant as Specified in its Charter)

Table 1 – Newly Registered Securities

Security Type	Security Class Title	Fee Calculation Rule	Amount Registered(1)	Proposed Maximum Offering Price Per Unit	Maximum Aggregate Offering Price	Fee Rate	Amount of Registration Fee
Equity	Common Stock	Rules 457(c) and (h)	843,218(2)	\$ 8.62(3)	\$ 7,268,540	0.0001476	\$ 1,072.84
Total Offering Amounts				–	\$ 7,268,540	–	\$ 1,072.84
Total Fees Previously Paid				–	–	–	–
Total Fee Offsets				–	–	–	–
Net Fee Due				–	–	–	\$ 1,072.84

- (1) 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 Registrant’s Common Stock that become issuable under the plans set forth herein by reason of any stock dividend, stock split, recapitalization, or other similar transaction effected without receipt of consideration that increases the number of outstanding shares of Registrant’s Common Stock.
- (2) Represents 632,414 shares of Common Stock that were reserved for issuance pursuant to the Registrant’s Amended and Restated 2016 Equity Incentive Plan, as amended, and 210,804 shares of Common Stock that were reserved for issuance pursuant to the Registrant’s 2016 Employee Stock Purchase Plan.
- (3) Estimated in accordance with Rules 457(c) and (h) solely for the purpose of calculating the registration fee on the basis of \$8.62 per share, the average of the high and low prices of the Registrant’s Common Stock on February 23, 2024, as reported on The Nasdaq Global Market.