

CLARCOR INC
Form S-8
June 02, 2009

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As Filed With the Securities and Exchange Commission
on June 2, 2009

Registration No. 333-_____

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
FORM S-8
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933**

CLARCOR INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of incorporation
or organization)

36-0922490
(I.R.S. Employer Identification No.)

**840 Crescent Centre Drive, Suite 600
Franklin, Tennessee 37067**
(Address of Principal Executive Offices)
CLARCOR INC. 2009 INCENTIVE PLAN

(Full title of the plan)
Richard M. Wolfson
Vice President, General Counsel and Secretary
CLARCOR, Inc.

**840 Crescent Centre Drive, Suite 600
Franklin, Tennessee 37067
(615) 771-3100**
(Name, Address, and Telephone Number of Registrant's agent for service)

Copy to:
J. Page Davidson
Bass, Berry & Sims PLC
315 Deaderick Street, Suite 2700
Nashville, Tennessee 37238

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

Large accelerated filer Accelerated filer Non-accelerated filer Smaller reporting company
(Do not check if a smaller reporting company)

CALCULATION OF REGISTRATION FEE

| Title of securities to be registered | Amount to be registered (1) | Proposed maximum offering price per share (2) | Proposed maximum aggregate offering price | Amount of registration fee |
|--------------------------------------|-----------------------------|---|---|----------------------------|
| Common Stock, \$1 par value | 3,800,000 | \$28.46 | \$108,148,000 | \$6,034.66 |

- (1) Pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the Securities Act), this registration statement includes an indeterminate number of additional shares which may be offered and issued to prevent dilution resulting from stock splits, stock dividends or similar transactions.

- (2) Pursuant to Rule 457(h)(1) and (c) under the Securities Act, the offering price is estimated solely for the purpose of calculating the registration fee on the basis of the average of the high (\$29.14) and low prices (\$27.78) of the Registrant's Common Stock on the New York Stock Exchange on May 28, 2009.

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

CLARCOR Inc. (the Registrant or the Company) has sent or given or will send or give documents containing the information specified by Part I of this Form S-8 Registration Statement (the Registration Statement) to participants in the plan to which this Registration Statement relates, as specified in Rule 428(b)(1) promulgated by the Securities and Exchange Commission (the SEC or the Commission) under the Securities Act of 1933, as amended (the Securities Act) and the Note to Part I of Form S-8. The Registrant is not filing such documents with the SEC, but these documents constitute (along with the documents incorporated by reference into the Registration Statement pursuant to Item 3 of Part II hereof) a prospectus that meets the requirements of Section 10(a) of the Securities Act.

PART II
INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents filed by the Registrant with the SEC, pursuant to the Securities Act or the Securities Exchange Act of 1934, as amended (the Exchange Act), are hereby incorporated by reference and shall be deemed to be a part hereof from the date of filing of such document:

- (1) The Registrant's Annual Report on Form 10-K for the fiscal year ended November 29, 2008;
- (2) The Registrant's Quarterly Report on Form 10-Q for the quarterly period ended February 28, 2009;
- (3) The Registrant's Current Report on Form 8-K filed with the Commission on December 30, 2008; and
- (4) The Registrant's description of its Common Stock, as set forth in the Registrant's Registration Statement on Form 8-A filed with the Commission on March 2, 1992 (File No. 001-11024), as amended by the Registrant's Amendment No. 1 thereto filed with the Commission on March 4, 1992 (File No. 001-11024), including any amendment or report filed for the purpose of updating such description.

Except to the extent that information therein is deemed furnished and not filed pursuant to the Exchange Act, all documents filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act subsequent to the effective date of this registration statement and prior to the filing of a post-effective amendment to this registration statement indicating that all securities offered hereby have been sold or deregistering all securities then remaining unsold shall be deemed to be incorporated by reference herein and to be a part hereof from the date of filing of such documents. Any statement contained herein or in any 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 other 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 be deemed to 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.

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Item 6. Indemnification of Directors and Officers.

Section 145 of the Delaware General Corporation Law (the "DGCL") permits a corporation, under specified circumstances, to indemnify its directors, officers, employees or agents against expenses (including attorneys' fees), judgments, fines and amounts paid in settlements actually and unreasonably incurred by them in connection with any action, suit or proceeding brought by third parties by reason of the fact that they were or are directors, officers, employees or agents of the corporation, if such directors, officers, employees or agents acted in good faith and in a manner they reasonably believed to be in or not opposed to the best interest of the corporation and, with respect to any criminal action or proceeding, had no reason to believe their conduct was unlawful. In a derivative action, i.e., one by or in the right of the corporation, indemnification may be made only for expenses actually and reasonably incurred by directors, officers, employees or agents in connection with the defense or settlement of an action or suit, and only with respect to a matter as to which they shall have acted in good faith and in a manner they reasonably believed to be in or not opposed to the best interests of the corporation, except that no indemnification shall be made if such person shall have been adjusted liable to the corporation, unless and only to the extent that the court in which the action or suit was brought shall determine upon application that the defendant directors, officers, employees or agents are fairly and reasonably entitled to indemnity for such expenses despite such adjudication of liability.

The Second Restated Certificate of Incorporation of the Company provides indemnification for directors, officers, employees and agents to the extent permitted by the DGCL, eliminates to the extent permitted by the law the personal liability of directors for monetary damages to the Company and its stockholders and permits the Company to insure its directors, officers, employees and agents against certain liabilities as to which they may not be indemnified under the DGCL.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

- 4.1 Second Restated Certificate of Incorporation of CLARCOR Inc. (incorporated by reference to Exhibit 3.1 to the Company's Annual Report on Form 10-K for the fiscal year ended December 1, 2007).
- 4.2 Amended and Restated By-laws of CLARCOR Inc. (incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K filed with the SEC on December 19, 2007).
- 5.1 Opinion of Bass, Berry & Sims PLC.
- 10.1 CLARCOR Inc. 2009 Incentive Plan (incorporated by reference to Appendix A to the Company's Definitive Proxy Statement filed with the SEC on February 13, 2009).
- 23.1 Consent of PricewaterhouseCoopers LLP, Independent Registered Public Accounting Firm.
- 23.2 Consent of Bass, Berry & Sims PLC (included in Exhibit 5.1).
- 24.1 Powers of Attorney (contained on signature pages of this Registration Statement).

Item 9. Undertakings.

A. The 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:
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(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 this 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 this 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 this Registration Statement or any material change to such information in this Registration Statement; *provided, however*, that clauses (a)(1)(i) and (a)(1)(ii) shall not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic 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 into this 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 therein, 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 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 this Registration Statement shall be deemed to be a new registration statement relating to the securities offered therein, 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 SEC 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.

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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 Franklin, State of Tennessee, on this 2nd day of June, 2009.

CLARCOR INC.

By: /s/ Norman E. Johnson
 Norman E. Johnson
 Chairman of the Board, President &
 Chief Executive Officer

KNOW ALL MEN BY THESE PRESENTS, each person whose signature appears below hereby constitutes and appoints Richard M. Wolfson as his true and lawful attorney-in-fact and agent, 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 Securities and Exchange Commission, granting unto said attorney-in-fact and agent full power and authority to do and perform each and every act and thing requisite and necessary, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming said attorney-in-fact and agent, or his 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 below.

| Signature | Title | Date |
|--|---|--------------|
| /s/ Norman E. Johnson Norman E. Johnson | Chairman of the Board, President & Chief Executive Officer and Director | June 2, 2009 |
| /s/ Bruce A. Klein Bruce A. Klein | Vice President Finance & Chief Financial Officer & Chief Accounting Officer | June 2, 2009 |
| /s/ J. Marc Adam J. Marc Adam | Director | June 2, 2009 |
| /s/ James W. Bradford, Jr. James W. Bradford, Jr. | Director | June 2, 2009 |
| /s/ Robert J. Burgstahler Robert J. Burgstahler | Director | June 2, 2009 |
| /s/ Paul Donovan Paul Donovan | Director | June 2, 2009 |

/s/ Robert H. Jenkins

Director

June 2, 2009

Robert H. Jenkins

/s/ James L. Packard

Director

June 2, 2009

James L. Packard

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