

Corium International, Inc.
Form S-8
April 03, 2014

As filed with the Securities and Exchange Commission on April 3, 2014

Registration No. 333-

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-8

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

CORIUM INTERNATIONAL, INC.

(Exact Name of Registrant as Specified in Its Charter)

Delaware
(State or Other Jurisdiction
of Incorporation or Organization)

38-3230774
(I.R.S. Employer
Identification No.)

235 Constitution Drive
Menlo Park, California 94025

(Address of Principal Executive Offices) (Zip Code)

2002 Stock Option Plan

Stratagent 2003 Stock Option Plan

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2012 Equity Incentive Plan

2014 Equity Incentive Plan

2014 Employee Stock Purchase Plan

(Full Title of the Plans)

Peter D. Staple

Chief Executive Officer

**Corium International, Inc.
235 Constitution Drive
Menlo Park, California 94025**

(Name and Address of Agent For Service)

(650) 298-8255

(Telephone Number, including area code, of agent for service)

Copies to:

Robert A. Freedman, Esq.

Fenwick & West LLP

Silicon Valley Center

801 California Street

Mountain View, California 94041

(650) 988-8500

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 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

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

Smaller reporting company

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
Common Stock, \$0.001 par value per share				
Outstanding under the 2002 Stock Option Plan	536,872(2)	\$2.13(3)	\$1,143,537	\$147
Outstanding under the Stratagent 2003 Stock Option Plan	4,558(4)	\$0.73(5)	\$3,327	\$1
Outstanding under the 2012 Equity Incentive Plan	1,453,514(6)	\$2.84(7)	\$4,127,980	\$532
Reserved for issuance under the 2014 Equity Incentive Plan	1,055,867(8)	\$8.00(9)	\$8,446,936	\$1,088
Reserved for issuance under the 2014 Employee Stock Purchase Plan	310,000(10)	\$6.80(9)	\$2,108,000	\$272
TOTAL	3,360,811	N/A	\$15,829,780	\$2,040

- (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 the Registrant's Common Stock that become issuable under the Registrant's 2002 Stock Option Plan (the 2002 Plan), Stratagent 2003 Stock Option Plan (the 2003 Plan), 2012 Equity Incentive Plan (the 2012 Plan), 2014 Equity Incentive Plan (the 2014 EIP) and 2014 Employee Stock Purchase Plan (the 2014 ESPP) by reason of any stock dividend, stock split, recapitalization or other similar transaction effected without the Registrant's receipt of consideration that increases the number of the outstanding shares of the Registrant's Common Stock.
- (2) Represents shares subject to issuance upon the exercise of stock options outstanding under the 2002 Plan as of the date of this Registration Statement. To the extent outstanding stock options under the 2002 Plan are forfeited or lapse unexercised and the shares that were subject to issuance upon the exercise of such stock options would otherwise have been returned to the share reserve under the 2002 Plan, the shares of Common Stock subject to such stock options instead will be available for future issuance under the 2014 EIP. See footnote 8 below.
- (3) Estimated solely for the purpose of calculating the registration fee in accordance with Rule 457(h) under the Securities Act on the basis of the weighted average exercise price of \$2.13 per share (rounded up to the nearest cent).
- (4) Represents shares subject to issuance upon the exercise of stock options outstanding under the 2003 Plan as of the date of this Registration Statement.
- (5) Estimated solely for the purpose of calculating the registration fee in accordance with Rule 457(h) under the Securities Act on the basis of the weighted average exercise price of \$0.73 per share (rounded up to the nearest cent).
- (6) Represents shares subject to issuance upon the exercise of stock options outstanding under the 2012 Plan as of the date of this Registration Statement. To the extent outstanding stock options under the 2012 Plan are forfeited or lapse unexercised and the shares that were subject to issuance upon the exercise of such stock options would otherwise have been returned to the share reserve under the 2012 Plan, the shares of Common Stock subject to such stock options instead will be available for future issuance under the 2014 EIP. See footnote 8 below.
- (7) Estimated solely for the purpose of calculating the registration fee in accordance with Rule 457(h) under the Securities Act on the basis of the weighted average exercise price of \$2.84 per share (rounded up to the nearest cent).
- (8) Shares of common stock reserved for future issuance under the 2014 EIP consist of (a) 1,000,000 shares of common stock reserved for future issuance under the 2014 EIP and (b) 55,867 shares of common stock previously reserved but unissued under the 2012 Plan that are now available for future issuance under the 2014 EIP. To the extent outstanding awards under the 2002 Plan or 2012 Plan are forfeited, lapse unexercised or would otherwise have been returned to the share reserve under the 2012 Plan, the shares of common stock subject to such awards instead will be available for future issuance under the 2014 EIP. See footnotes 2 and 6 above.
- (9) Calculated solely for the purposes of this offering under Rule 457(h) of the Securities Act on the basis of the initial public offering price per share of the Registrant's Common Stock as set forth in the Registrant's prospectus filed with the Securities and Exchange Commission on April 3, 2014 pursuant to Rule 424(b) under the Securities Act. In the case of the 2014 ESPP, this price per share is multiplied by 85%, which is the percentage of the price per share applicable to purchases under the 2014 ESPP.
- (10) Represents shares reserved for issuance under the 2014 ESPP as of the date of this Registration Statement.

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 of 1933, as amended (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 under the Securities Act.

PART II

Information Required in the Registration Statement

Item 3. Incorporation of Documents by Reference.

The Registrant hereby incorporates by reference into this Registration Statement the following documents previously filed with the Commission:

- (a) the Registrant's Amendment No. 1 to Form S-1 Registration Statement filed on March 24, 2014 (Registration No. 333-194279) (the Form S-1), 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 Registrant's Common Stock contained in the Registrant's Registration Statement on Form 8-A (Registration No. 001-36375) filed with the Commission on March 25, 2014, including any amendments or reports filed for the purpose of updating such description.

All reports and definitive proxy or information statements filed by the Registrant pursuant to Section 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended (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 de-registers 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 of such documents, except as to documents or information deemed to have been furnished and not filed in accordance with the rules of the Commission. 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 in any subsequently filed document which also is deemed to be incorporated by reference herein modifies or supersedes such statement.

Item 4. Description of Securities.

Not applicable.

Item 5. Interests of Named Experts and Counsel.

Not applicable.

Item 6. Indemnification of Directors and Officers.

Section 145 of the Delaware General Corporation Law authorizes a court to award or the Board of Directors of a corporation to grant indemnity to directors and officers in terms sufficiently broad to permit indemnification (including reimbursement of expenses incurred) under certain circumstances for liabilities arising under the Securities Act.

As permitted by the Delaware General Corporation Law, the restated certificate of incorporation of the Registrant contains provisions that eliminate the personal liability of its directors for monetary damages for any breach of fiduciary duties as a director, to the fullest extent permitted by law.

As permitted by the Delaware General Corporation Law, the restated bylaws of the Registrant provide that (i) the Registrant is required to indemnify its directors and executive officers to the fullest extent permitted by the Delaware General Corporation Law, subject to very limited exceptions; (ii) the Registrant may enter into indemnification contracts with any director, officer, employee or agent of the Registrant; (iii) the Registrant is required to advance expenses, as incurred, to its directors and executive officers in connection with a legal proceeding to the fullest extent permitted by the Delaware General Corporation Law, subject to very limited exceptions; and (iv) the rights conferred in the restated bylaws are not exclusive.

In addition, the Registrant has entered into indemnification agreements with each of its current directors and executive officers to provide them with additional contractual assurances regarding the scope of the indemnification set forth in the Registrant's restated certificate of incorporation and restated bylaws and to provide additional procedural protections. At present, there is no pending litigation or proceeding involving a director, officer or employee of the Registrant regarding which indemnification is sought, nor is the Registrant aware of any threatened litigation that may result in claims for indemnification.

The Registrant currently carries liability insurance for its directors and officers.

Reference is also made to the Underwriting Agreement filed with the Form S-1 for the Registrant's initial public offering, which provides for the indemnification of officers, directors and controlling persons of the Registrant against certain liabilities.

The indemnification provision in the Registrant's restated certificate of incorporation and restated bylaws and the indemnification agreements entered into between the Registrant and each of its directors and executive officers may be sufficiently broad to permit indemnification of the Registrant's directors and officers for liabilities arising under the Securities Act.

See also the undertakings set out in response to Item 9 of this Registration Statement.

Item 7. Exemption from Registration Claimed.

Not applicable.

Item 8. Exhibits.

Exhibit Number	Exhibit Description	Form	Incorporated by Reference		Filing Date	Filed Herewith
			File No.	Exhibit		
4.1	Restated Certificate of Incorporation of the Registrant, as amended to date.	S-1	333-194279	3.1	March 24, 2014	
4.2	Form of Restated Certificate of Incorporation of the Registrant, to be effective in connection with the closing of the offering covered by the Form S-1.	S-1	333-194279	3.2	March 24, 2014	
4.3	Bylaws of the Registrant, as currently in effect.	S-1	333-194279	3.3	March 3, 2014	
4.4	Form of Restated Bylaws of the Registrant, to be effective in connection with the closing of the offering covered by the Form S-1.	S-1	333-194279	3.4	March 24, 2014	

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4.5	2002 Stock Option Plan and forms of award agreements.	S-1	333-194279	10.2	March 3, 2014	
4.6	Stratagent 2003 Stock Option Plan.					X
4.7	2012 Equity Incentive Plan and forms of award agreements.	S-1	333-194279	10.3	March 3, 2014	
4.8	2014 Equity Incentive Plan and forms of award agreements.	S-1	333-194279	10.4	March 24, 2014	
4.9	2014 Employee Stock Purchase Plan and forms of award agreements.	S-1	333-194279	10.5	March 24, 2014	
5.1	Opinion and Consent of Fenwick & West LLP.					X