

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

FORM S-8

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

**Peregrine Pharmaceuticals, Inc.**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of  
of incorporation or organization)

**95-3698422**

(IRS Employer  
Identification No.)

**14282 Franklin Avenue  
Tustin, California**

(Address of principal executive offices)

**92780-7017**

(Zip Code)

**Peregrine Pharmaceuticals, Inc.  
2009 Stock Incentive Plan**  
(Full title of the plan)

**Paul J. Lytle  
Chief Financial Officer  
14282 Franklin Avenue  
Tustin, California 92780-7017  
(714) 508-6000**

(Name, address and telephone number, including area code, of agent for service)

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

(Do not check if a smaller reporting company)

Smaller reporting company

**CALCULATION OF REGISTRATION FEE**

<b>Title of securities to be Registered</b>	<b>Amount to be registered <sup>(1)</sup></b>	<b>Proposed maximum offering price per share <sup>(2)</sup></b>	<b>Proposed maximum aggregate offering price</b>	<b>Amount of registration fee</b>
Common Stock, \$0.001 par value, issuable under the 2009 Stock Incentive Plan (the "2009 Plan")	3,000,000 shares	\$ 2.68	\$ 8,040,000	\$ 574

<sup>(1)</sup> Pursuant to Rule 416(a) there are also being registered additional shares of common stock that may become available for purchase in accordance with the provisions of the 2009 Plan to prevent dilution in the event of any future change in the outstanding shares of common stock as a result of a recapitalization stock dividends, stock splits or similar adjustments. The number of shares being registered has been adjusted to give effect to the Company's one-for-five reverse stock split which was effective as of the close of business on October 16, 2009.

<sup>(2)</sup> Estimated solely for purposes of calculating the registration fee pursuant to Rules 457(c) and 457(h) based upon the average of the high and low sales prices of the Company's common stock as reported on the Nasdaq Capital Market on December 23, 2009.

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## PART I

### INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

The documents containing the information specified in Part I of this Form S-8 will be delivered to each employee who is eligible to participate in the Peregrine Pharmaceuticals, Inc. 2009 Stock Incentive Plan (the "2009 Plan") in accordance with Rule 428(b)(1) under the Securities Act of 1933, as amended (the "Securities Act"). These documents are not being filed with the Securities and Exchange Commission (the "SEC") either as part of this registration statement or as prospectuses or prospectus supplements pursuant to Rule 424 under the Securities Act. These documents and the documents incorporated by reference into this registration statement pursuant to Item 3 of Part II of this Form S-8, taken together, constitute 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 Certain Documents by Reference.

The following documents filed by Peregrine Pharmaceuticals, Inc. (the "Company") with the Securities and Exchange Commission (the "SEC") are incorporated by reference into this Registration Statement and are deemed to be a part hereof from the date of filing:

1. The Company's Annual Report on Form 10-K for the fiscal year ended April 30, 2009, as filed with the SEC on July 14, 2009, as amended by Form 10-K/A as filed with the SEC on August 7, 2009.
2. The Company's Definitive Proxy Statement with respect to the 2009 Annual Meeting of Stockholders held on October 22, 2009, as filed with the SEC on August 28, 2009.
3. The Company's Quarterly Reports on Form 10-Q for the quarterly periods ended July 31, 2009 and October 31, 2009, as filed with the SEC on September 3, 2009 and December 10, 2009, respectively.
4. The Company's Current Reports on Form 8-K filed on July 14, 2009, September 3, 2009, October 19, 2009, October 27, 2009 and December 10, 2009.
5. The description of the Company's Common Stock, \$0.001 par value (the "Common Stock"), is contained in the Company's Registration Statements on Form 8-A and Form 8-B (Registration of Successor Issuers) including any amendments or reports filed for the purpose of updating such information.

In addition, all documents subsequently filed by the Company pursuant to Section 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934, as amended (the "Act"), after the date of this Registration Statement and prior to the filing of a post-effective amendment that indicates that all securities offered have been sold or that deregisters 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. Any statement contained in a document 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 that is incorporated by reference herein modifies or supersedes such earlier 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.

Nothing in this registration statement shall be deemed to incorporate information furnished but not filed with the SEC pursuant to Item 2.02 or Item 7.01 of Form 8-K.

#### 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 permits us to indemnify our directors and officers under certain conditions and subject to certain limitations.

Our Bylaws provide that we will indemnify our directors and officers and may indemnify our employees and other agents to the fullest extent permitted by law. We believe that indemnification under our Bylaws covers at least negligence and gross negligence by indemnified parties, and permits us to advance litigation expenses in the case of stockholder derivative actions or other actions, against an undertaking by the indemnified party to repay such advances if it is ultimately determined that the indemnified party is not entitled to indemnification. We have liability insurance for our directors and officers.

In addition, our Certificate of Incorporation provides that, under Delaware law, our directors shall not be liable for monetary damages for breach of the directors' fiduciary duty as a director to us and our stockholders. This provision in the Certificate of Incorporation does not eliminate the directors' fiduciary duty, and in appropriate circumstances equitable remedies such as injunctive or other forms of non-monetary relief will remain available under Delaware law. In addition, each director will continue to be subject to liability for breach of the director's duty of loyalty to our Company for acts or omissions not in good faith or involving intentional misconduct, for knowing violations of law, for actions leading to improper personal benefit to the director, and for payment of dividends or approval of stock repurchases or redemptions that are unlawful under Delaware law. The provision also does not affect a director's responsibilities under any other law, such as the federal securities laws or state or federal environmental laws.

Provisions of our Bylaws require us, among other things, to indemnify them against certain liabilities that may arise by reason of their status or service as directors or officers (other than liabilities arising from actions not taken in good faith or in a manner the indemnitee believed to be opposed to our best interests) to advance their expenses incurred as a result of any proceeding against them as to which they could be indemnified and to obtain directors' insurance if available on reasonable terms. To the extent that indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers or persons controlling our Company as discussed in the foregoing provisions, we have been informed that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act of 1933, and is therefore unenforceable. We believe that our Certificate of Incorporation and Bylaw provisions are necessary to attract and retain qualified persons as directors and officers.

We have in place a directors' and officers' liability insurance policy that, subject to the terms and conditions of the policy, insures our directors and officers against losses arising from any wrongful act (as defined by the policy) in his or her capacity as a director or officer. The policy reimburses us for amounts for which we lawfully indemnify or are required or permitted by law to indemnify our directors and officers.

**Item 7. Exemption from Registration Claimed.**

Not applicable.

**Item 8. Exhibits.**

See Exhibit Index.

## Item 9. Undertakings.

a. The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers of sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the 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 the 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 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement.

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

*Provided, however,* That Paragraphs (a)(1)(i) and (a)(1)(ii) of this section do not apply if the registration statement is on Form S-8, and the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the registrant pursuant to section 13 or section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, 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 Section 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 the 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.

h. 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 Securities and Exchange Commission such indemnification is against public policy as expressed in the 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.

**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 on Form S-8 to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Tustin, State of California, on December 24, 2009.

PEREGRINE PHARMACEUTICALS, INC.

By: /s/ Steven W. King  
Steven W. King,  
President, Chief Executive Officer, and Director

**POWER OF ATTORNEY**

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints, Steven W. King and Paul J. Lytle, and each of them, as his attorney-in-fact, each with full power of substitution, for him in any and all capacities, to sign any and all amendments to this Registration Statement (including post-effective amendments), and any and all Registration Statements filed pursuant to Rule 462 under the Securities Act of 1933, as amended, in connection with or related to the Offering contemplated by this Registration Statement and its amendments, if any, and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming our signatures as they may be signed by our said attorney to any and all amendments to said Registration Statement.

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.

<u>SIGNATURE</u>	<u>TITLE</u>	<u>DATE</u>
<u>/s/ Steven W. King</u> Steven W. King	President, Chief Executive Officer, and Director	December 24, 2009
<u>/s/ Paul J. Lytle</u> Paul J. Lytle	Chief Financial Officer and Corporate Secretary (signed both as an officer duly authorized to sign on behalf of the Registrant as Principal Financial Officer and Principal Accounting Officer)	December 24, 2009
<u>/s/ Carlton M. Johnson</u> Carlton M. Johnson	Director	December 24, 2009
<u>/s/ Eric S. Swartz</u> Eric S. Swartz	Director	December 24, 2009
<u>/s/ David H. Pohl</u> David H. Pohl	Director	December 24, 2009

## EXHIBIT INDEX

<u>Exhibit Number</u>	<u>Exhibit</u>
4.13	2009 Stock Incentive Plan (Incorporated by reference to Exhibit A to Registrant's Definitive Proxy Statement filed with the SEC on August 28, 2009)
4.14	Incentive Stock Option Award Agreement (Incorporated by reference to Exhibit 4.14 to Registrant's Current Report on Form 8-K filed with the SEC on October 27, 2009)
4.15	Non-Qualified Stock Option Award Agreement (Incorporated by reference to Exhibit 4.15 to Registrant's Current Report on Form 8-K filed with the SEC on October 27, 2009)
5.1	Opinion of Counsel
23.1	Consent of Independent Registered Public Accounting Firm
23.2	Consent of Counsel (included in Exhibit 5.1)
24.1	Power of Attorney (included in this Registration Statement under "Signatures")





## OPINION OF COUNSEL

**Snell & Wilmer L.L.P.**  
600 Anton Boulevard  
Suite 1400  
Costa Mesa, California 92626-7689  
TELEPHONE: (714) 427-7000  
FACSIMILE: (714) 427-7799

December 24, 2009

Peregrine Pharmaceuticals Inc.  
14282 Franklin Avenue  
Tustin, CA 92780-7017

**Re:     *Registration Statement on Form S-8***  
***Peregrine Pharmaceuticals, Common Stock, \$0.001 par value per share***

Ladies and Gentlemen:

We have acted as counsel to Peregrine Pharmaceuticals Inc., a Delaware corporation (the "Company"), in connection with its Registration Statement on Form S-8 (the "Registration Statement"), to be filed with the Securities and Exchange Commission (the "Commission") under the Securities Act of 1933, as amended (the "Securities Act") relating to the Peregrine Pharmaceuticals, Inc. 2009 Stock Incentive Plan (the "Plan"). The Registration Statement relates to the issuance and sale from time to time, under Rule 415 of the General Rules and Regulations promulgated under the Securities Act, of up to 3,000,000 shares of the Company's common stock, \$0.001 par value per share (the "Shares").

All capitalized terms herein that are not otherwise defined shall have the meaning ascribed thereto in the Registration Statement. This opinion is delivered in accordance with the requirements of Item 601(b)(5) of Regulation S-K under the Securities Act. In connection with this opinion, we have examined and relied upon the Company's Certificate of Incorporation and Bylaws, each as amended and/or restated to date; the Registration Statement; pertinent records of the meetings of the directors and stockholders of the Company; and such corporate records of the Company and such other instruments and other certificates of public officials, officers and representatives of the Company and such other persons, and we have made such investigations of law, as we have deemed appropriate as a basis for the opinions expressed below. In addition, we have assumed and have not independently verified the accuracy as to factual matters of each document we have reviewed.

For purposes of rendering this opinion, we have examined originals or copies certified or otherwise identified to our satisfaction of the documents described in the preceding paragraph and such other documents and records as we have deemed appropriate. In conducting such examination, we have assumed the genuineness of all signatures and the authenticity of all documents submitted to us as originals and conformity to original documents of all documents submitted to us as certified, photostatic or other copies, and the legal competence of all signatories to such documents. As to questions of fact material to our opinion, we have relied upon certificates of officers of the Company and of public officials. It is understood that this opinion is to be used only in connection with the filing of the Registration Statement. We are opining only on the matters expressly set forth herein, and no opinion should be inferred as to any other matter.

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We are admitted to practice only in the State of California and we do not express any opinion as to the laws of any jurisdiction other than the laws of the State of California, the statutory provisions of the Delaware General Corporation Law and the laws of the United States of America. As to matters of the Delaware General Corporation Law, we have based our opinion solely upon our examination of such statutory provisions as reported in standard, unofficial compilations. The opinions herein are based upon the facts in existence and laws in effect on the date hereof and we expressly disclaim any obligation to update, revise, or supplement our opinions herein, regardless of whether changes in such facts or laws come to our attention after the delivery hereof.

Based on the foregoing, and the matters discussed below, after having given due regard to such issues of law as we deemed relevant, we are of the opinion that the Shares have been duly authorized for issuance and, when the Shares are issued and paid for in accordance with the terms and conditions of the Plan, the Shares will be validly issued, fully paid and nonassessable.

We are furnishing this opinion to the Company solely in connection with the Registration Statement, and it is understood that this opinion is to be used only in connection with the offer and sale of the Shares while the Registration Statement is in effect. This opinion may not be relied on by, nor copies delivered to, any other person or entity without our prior written consent. Notwithstanding the preceding sentence, we hereby consent to the filing of this opinion as Exhibit 5.1 to the Registration Statement and to the reference to our firm in the Registration Statement in the context of issuing this opinion. In giving such consent, we do not hereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission promulgated thereunder.

Very truly yours,

/s/ Snell & Wilmer L.L.P.  
Snell & Wilmer L.L.P.

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**Consent of Independent Registered Public Accounting Firm**

We consent to the incorporation by reference in the Registration Statement (Form S-8) pertaining to the Peregrine Pharmaceuticals, Inc. 2009 Stock Incentive Plan of our reports dated July 14, 2009, with respect to the consolidated financial statements and schedule of Peregrine Pharmaceuticals, Inc. included in its Annual Report (Form 10-K) for the year ended April 30, 2009, and the effectiveness of internal control over financial reporting of Peregrine Pharmaceuticals, Inc., filed with the Securities and Exchange Commission.

**/s/ Ernst & Young LLP**

Orange County, California  
December 23, 2009