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

FORM S-8

**REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933**

EYENOVIA, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

47-1178401
(I.R.S. Employer
Identification No.)

**295 Madison Avenue, Suite 2400
New York, NY 10017
(917) 289-1117**

(Address, Including Zip Code, of Principal Executive Offices)

Eyenovia, Inc. Amended and Restated 2018 Omnibus Stock Incentive Plan
(Full Title of the Plan)

**Michael Rowe
Chief Executive Officer
295 Madison Avenue, Suite 2400
New York, NY 10017
(917) 289-1117**

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

Copy to:
Megan N. Gates, Esq.
Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
One Financial Center
Boston, MA 02111
Telephone: (617) 542-6000

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	..	Accelerated filer	..
Non-accelerated filer	x	Smaller reporting company	x
		Emerging growth company	x

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

This Registration Statement is being filed to register an additional 1,500,000 shares of common stock, par value \$0.0001 per share (the “Common Stock”), of Eyenovia, Inc. (the “Registrant”) reserved for issuance under the Eyenovia, Inc. Amended and Restated 2018 Omnibus Stock Incentive Plan (the “Plan”). This Registration Statement registers additional securities of the same class for which a registration statement filed on Form S-8 relating to the Plan is effective. The information contained in the Registrant’s registration statements on Form S-8 filed with the Securities and Exchange Commission (the “Commission”) on August 27, 2018 ([File No. 333-227049](#)), August 14, 2019 ([File No. 333-233280](#)), August 14, 2020 ([File No. 333-246288](#)) and November 12, 2021 ([File No. 333-261035](#)) is hereby incorporated by reference pursuant to General Instruction E of Form S-8.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents previously filed by the Registrant with the Commission are incorporated herein by reference:

- a) The Registrant’s Annual Report on Form 10-K for the fiscal year ended December 31, 2021, filed with the Commission on [March 30, 2022](#);
- b) The Registrant’s Quarterly Reports on Form 10-Q filed with the Commission on [May 13, 2022](#) and [August 11, 2022](#);
- c) The Registrant’s Current Reports on Form 8-K filed with the Commission on [February 7, 2022](#), [February 8, 2022](#), [March 7, 2022](#), [March 9, 2022](#), [April 4, 2022](#), [May 12, 2022](#) (with respect to the events reported as of May 6 and 11, 2022), [June 7, 2022](#), [June 17, 2022](#), [July 7, 2022](#), [July 27, 2022](#) and [August 10, 2022](#);
- d) The portions of the Registrant’s Definitive Proxy Statement on Schedule 14A filed on [May 2, 2022](#) that are deemed “filed” with the Commission under the Securities Exchange Act of 1934, as amended (the “Exchange Act”); and
- e) The description of the Registrant’s securities contained in the Registrant’s Registration Statement on Form 8-A (File No. 333-222162), filed with the Commission on [January 24, 2018](#), including any amendments or reports filed for the purpose of updating such description.

All reports and other documents filed, but not furnished, by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act after the date hereof and prior to the filing of a post-effective amendment that indicates that all securities offered under this Registration Statement 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 hereof from the date of filing of such reports and documents. In no event, however, will any of the information, including exhibits, that the Registrant discloses under Item 2.02 or Item 7.01 of any report on Form 8-K that has been or may be, from time to time, furnished to the Commission, be incorporated by reference into or otherwise become a part of this Registration Statement.

Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for the purposes of this Registration Statement to the extent that a statement contained herein or in any other subsequently filed document that also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

Item 5. Interests of Named Experts and Counsel.

None.

Item 8. Exhibits.

Exhibit Number	Exhibit Description	Filed Herewith	Incorporated by Reference herein from Form or Schedule	Filing Date	SEC File/ Reg. Number
4.1	Third Amended and Restated Certificate of Incorporation of Eyenovia, Inc.		Form 8-K (Exhibit 3.1)	01/29/2018	001-38365
4.1.1	Certificate of Amendment to the Third Amended and Restated Certificate of Incorporation.		Form 8-K (Exhibit 3.1.1)	06/14/2018	001-38365
4.2	Second Amended and Restated Bylaws.		Form 8-K (Exhibit 3.1)	02/07/2022	001-38365
5.1	Opinion of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.	X			
23.1	Consent of Marcum LLP, Independent Registered Public Accounting Firm.	X			
23.2	Consent of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. (included in Exhibit 5.1).	X			
24.1	Power of Attorney (included on the signature page to this Registration Statement).	X			
99.1+	Eyenovia, Inc. Amended and Restated 2018 Omnibus Stock Incentive Plan, as amended.		Form 8-K (Exhibit 10.1)	06/17/2022	001-38365
99.2+	Form of Notice of Stock Option Grant and Award Agreement.		Form 8-K (Exhibit 10.14)	06/14/2018	001-38365
99.3+	Form of Restricted Stock Award Agreement.		Form 8-K (Exhibit 10.15)	06/14/2018	001-38365
107	Filing Fee Table.	X			

+ Denotes management contract or compensatory plan or arrangement.

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 New York, State of New York, on August 12, 2022.

EYENOVIA, INC.

By: /s/ John Gandolfo
John Gandolfo
Chief Financial Officer

POWER OF ATTORNEY

Each person whose signature appears below constitutes and appoints Michael Rowe and John Gandolfo, and each of them singly (with full power to each of them to act alone), as his true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for him and in 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 or necessary to be done in and about the premises, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that 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 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/ Michael Rowe</u> Michael Rowe	Chief Executive Officer (Principal Executive Officer) and Director	August 12, 2022
<u>/s/ John Gandolfo</u> John Gandolfo	Chief Financial Officer (Principal Financial and Accounting Officer)	August 12, 2022
<u>/s/ Stephen Benjamin</u> Stephen Benjamin	Director	August 12, 2022
<u>/s/ Julia A. Haller</u> Julia A. Haller	Director	August 12, 2022
<u>/s/ Tsontcho Ianchulev</u> Tsontcho Ianchulev	Director	August 12, 2022
<u>s/ Rachel Jacobson</u> Rachel Jacobson	Director	August 12, 2022
<u>/s/ Kenneth B. Lee, Jr.</u> Kenneth B. Lee, Jr.	Director	August 12, 2022
<u>/s/ Charles E. Mather IV</u> Charles E. Mather IV	Director	August 12, 2022
<u>/s/ Ram Palanki</u> Ram Palanki	Director	August 12, 2022
<u>/s/ Ellen R. Strahlman</u> Ellen R. Strahlman	Director	August 12, 2022



August 12, 2022

Eyenovia, Inc.
295 Madison Avenue, Suite 2400
New York, NY 10017

Ladies and Gentlemen:

We have acted as legal counsel to Eyenovia, Inc., a Delaware corporation (the “Company”), in connection with the preparation and filing with the Securities and Exchange Commission (the “Commission”) of a Registration Statement on Form S-8 (the “Registration Statement”), pursuant to which the Company is registering the issuance under the Securities Act of 1933, as amended (the “Securities Act”), of an aggregate of 1,500,000 shares (the “Shares”) of the Company’s common stock, \$0.0001 par value per share (the “Common Stock”) that may be issued pursuant to the Company’s Amended and Restated 2018 Omnibus Stock Incentive Plan (the “Plan”). This opinion is being rendered in connection with the filing of the Registration Statement with the Commission. All capitalized terms used herein and not otherwise defined shall have the respective meanings given to them in the Registration Statement.

In connection with this opinion, we have examined the Company’s Third Amended and Restated Certificate of Incorporation, as amended, and Second Amended and Restated Bylaws, each as currently in effect; such other records of the corporate proceedings of the Company and certificates of the Company’s officers as we have deemed relevant; and the Registration Statement and the exhibits thereto.

In our examination, we have assumed the genuineness of all signatures, the legal capacity of natural persons, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as copies, the authenticity of the originals of such copies, and the truth and correctness of any representations and warranties contained therein. In addition, we have assumed that the Company will receive any required consideration in accordance with the terms of the Plan.

Our opinion expressed herein is limited to the General Corporation Law of the State of Delaware and we express no opinion with respect to the laws of any other jurisdiction. No opinion is expressed herein with respect to the qualification of the Shares under the securities or blue sky laws of any state or any foreign jurisdiction.

Please note that we are opining only as to the matters expressly set forth herein, and no opinion should be inferred as to any other matters. This opinion is based upon currently existing statutes, rules, regulations and judicial decisions, and we disclaim any obligation to advise you of any change in any of these sources of law or subsequent legal or factual developments which might affect any matters or opinions set forth herein.

Based upon the foregoing, we are of the opinion that the Shares, when issued and delivered in accordance with the terms of the Plan, will be validly issued, fully paid and non-assessable.

BOSTON LONDON LOS ANGELES NEW YORK SAN DIEGO SAN FRANCISCO WASHINGTON
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C.

We understand that you wish to file this opinion with the Commission as an exhibit to the Registration Statement in accordance with the requirements of Item 601(b)(5) of Regulation S-K promulgated under the Securities Act, and we hereby consent thereto. In giving this consent, we do not admit that we are within 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/ Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.

INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM'S CONSENT

We consent to the incorporation by reference in this Registration Statement of Eyenovia, Inc. on Form S-8 of our report dated March 30, 2022, which includes an explanatory paragraph as to the Company's ability to continue as a going concern, with respect to our audits of the financial statements of Eyenovia Inc. as of December 31, 2021 and 2020 and for each of the two years in the period ended December 31, 2021 appearing in the Annual Report on Form 10-K of Eyenovia, Inc. for the year ended December 31, 2021.

/s/ Marcum LLP

Marcum LLP
New York, New York
August 12, 2022

Calculation of Filing Fee Table

Form S-8
(Form Type)

Eyenovia, Inc.
(Exact Name of Registrant as Specified in its Charter)

Table 1: Newly Registered

Security Type	Security Class Title	Fee Calculation Rule	Amount Registered	Proposed Maximum Offering Price Per Unit	Maximum Aggregate Offering Price	Fee Rate	Amount of Registration Fee
Equity	Common Stock \$0.0001 par value per share	457(c) and 457 (h)	1,500,000 (1)	\$1.70 (2)	\$2,550,000.00	\$0.0000927	\$236.39
Total Offering Amounts					\$2,550,000.00		\$236.39
Total Fee Offsets							-
Net Fee Due							\$236.39

(1) Represents the number of common stock, par value \$0.0001 per share ("Common Stock") that may be issued under the Eyenovia, Inc. Amended and Restated 2018 Omnibus Stock Incentive Plan (the "Plan"). Pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the "Securities Act"), this Registration Statement shall also cover any additional Common Stock that become issuable under the Plan as a result of any stock dividend, stock split, recapitalization or similar transaction effected without the Registrant's receipt of consideration which would increase the number of outstanding Common Stock.

(2) Estimated solely for the purpose of calculating the amount of the registration fee pursuant to Rule 457(c) and Rule 457(h) promulgated under the Securities Act on the basis of the average of the high and the low price of Registrant's Common Stock as reported on the Nasdaq Capital Market on August 9, 2022.