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TREND MICRO INC
Form S-8
April 10, 2002

As filed with the Securities and Exchange Commission on April 10, 2002
Registration Statement No. 333-

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SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM S-8

REGISTRATION STATEMENT UNDER
THE SECURITIES ACT OF 1933

TREND MICRO KABUSHIKI KAISHA
(Exact name of issuer as specified in its charter)

TREND MICRO INCORPORATED
(Translation of issuer's name into English)

Japan
(State or other jurisdiction of
incorporation or organization)

None
(I.R.S. Employer
Identification No.)

Odakyu Southern Tower, 10F
2-1, Yoyogi 2-chome
Shibuya-ku, Tokyo 151-8583, Japan
81-3-5334-3600
(Address of Principal Executive Offices)

TREND MICRO INCORPORATED
2001 INCENTIVE PLAN
TREND MICRO INCORPORATED
2001 STOCK OPTION PLAN
(Full title of the plans)

Mike Conner
President, Trend Micro North American Operations
c/o Trend Micro, Inc.
10101 N. DeAnza Blvd., Suite 400
Cupertino, California 95014
(408) 257-1000
(Name, address and telephone number of agent for service)

CALCULATION OF REGISTRATION FEE

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| Title of Securities to be Registered | Amount to be Registered (1) | Proposed Maximum Offering Price Per Share | Proposed Maximum Aggregate Offer Price |
|---|--------------------------------|---|--|
| Common Stock | 195,419 shares (2) | \$ 42.79 (2) | \$ 8,361,979.0 |
| | 272,500 shares (3) | \$ 43.43 (3) | \$11,834,675.0 |
| | 31,424 shares (4) | \$ 43.43 (4) | \$ 1,364,744.3 |

- (1) Plus such indeterminate number of additional shares as may be offered and issued to prevent dilution resulting from stock splits or similar transactions in accordance with Rule 416 under the Securities Act of 1933, as amended.
- (2) Relates to 1,109 out of the 4,955 warrants issued under the Trend Micro Incorporated 2001 Incentive Plan. Each warrant represents the right to purchase (Yen)1,000,000 in the aggregate purchase price of shares of the Registrant's common stock. The proposed maximum offering price per share was derived, pursuant to Rule 457(h) under the Securities Act of 1933, as amended, from the price at which a warrant may be exercised, (Yen)5,675 per share, translated into dollars based on an exchange rate of 132.65 yen per dollar, which was the noon buying rate in New York City for cable transfers in foreign currencies as certified for customs purposes by the Federal Reserve Bank of New York on April 3, 2002.
- (3) Relates to 272,500 out of 713,500 options issued under the Trend Micro Incorporated 2001 Stock Option Plan. Each option represents the right to purchase one share of the Registrant's common stock. The proposed maximum offering price per share was derived, pursuant to Rule 457(h) under the Securities Act of 1933, as amended, from the price at which a warrant may be exercised, (Yen)5,760 per share, translated into dollars based on an exchange rate of 132.65 yen per dollar, which was the noon buying rate in New York City for cable transfers in foreign currencies as certified for customs purposes by the Federal Reserve Bank of New York on April 3, 2002.
- (4) Relates to 181 out of the 1,475 warrants issued under the Trend Micro Incorporated 2001 Incentive Plan. Each warrant represents the right to purchase (Yen)1,000,000 in the aggregate purchase price of shares of the Registrant's common stock. The proposed maximum offering price per share was derived, pursuant to Rule 457(h) under the Securities Act of 1933, as amended, from the price at which a warrant may be exercised, (Yen)5,760 per share, translated into dollars based on an exchange rate of 132.65 yen per dollar, which was the noon buying rate in New York City for cable transfers in foreign currencies as certified for customs purposes by the Federal Reserve Bank of New York on April 3, 2002.

PART I

Item 1. PLAN INFORMATION

All information required by Part I of Form S-8 to be contained in the Section 10(a) prospectus is omitted from this Registration Statement in accordance with Rule 428 under the Securities Act of 1933, as amended (the "Securities Act"), and the Note to Part I of Form S-8.

Item 2. REGISTRANT INFORMATION AND EMPLOYEE ANNUAL INFORMATION

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All information required by Part I of Form S-8 to be contained in the Section 10(a) prospectus is omitted from this Registration Statement in accordance with Rule 428 under the Securities Act and the Note to Part I of Form S-8.

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PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. INCORPORATION OF DOCUMENTS BY REFERENCE

The following documents filed by Trend Micro Incorporated (the "Registrant") with the Securities and Exchange Commission (the "Commission") (File No. 1-7952) are incorporated herein by reference and made a part hereof:

- (a) The Registrant's Annual Report on Form 20-F for the fiscal year ended December 31, 2000 (file no. 333-10486);
- (b) The Registrant's Report of Foreign Private Issuer on Form 6-K, dated August 8, 2001;
- (c) The Registrant's Report of Foreign Private Issuer on Form 6-K, dated October 22, 2001;
- (d) The Registrant's Report of Foreign Private Issuer on Form 6-K, dated October 29, 2001;
- (e) The Registrant's Report of Foreign Private Issuer on Form 6-K, dated October 30, 2001;
- (f) The Registrant's Report of Foreign Private Issuer on Form 6-K, dated January 25, 2002;
- (g) The Registrant's Report of Foreign Private Issuer on Form 6-K, dated February 13, 2002;
- (h) The Registrant's Report of Foreign Private Issuer on Form 6-K, dated March 29, 2002; and
- (i) The Registrant's Report of Foreign Private Issuer on Form 6-K, dated April 10, 2002.

In addition, all documents filed by the Registrant with the Commission pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934, as amended, subsequent to 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 in this Registration Statement and to be a part hereof from the date of filing of such documents.

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

Articles 254 and 280 of the Commercial Code of Japan (the "Commercial Code") make the provisions of Section 10, Chapter 2, Book III of the Civil Code of Japan applicable to the relationship between the Registrant and its directors and statutory auditors, respectively. Section 10, among other things, provides in effect that:

(1) Any director or statutory auditor of a company may demand advance payment of expenses which are considered necessary for the management of the affairs of such company entrusted to him;

(2) If a director or a statutory auditor of a company has defrayed any expenses which are considered necessary for the management of the affairs of such company entrusted to him, he may demand reimbursement therefor and interest thereon after the date of payment from the company;

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(3) If a director or a statutory auditor has assumed an obligation necessary for the management of the affairs entrusted to him, he may require the company to perform it in his place or, if it is not due, to furnish adequate security; and

(4) If a director or a statutory auditor, without any fault on his part, sustains damage through the management of the affairs entrusted to him, he may demand compensation therefor from the company.

The Registrant has entered into agreements with its directors and certain of its executive officers that require the Registrant to indemnify such persons against expenses (including attorneys' fees), judgments, fines, settlements and other amounts actually and reasonably incurred (including expenses of a derivative action) in connection with any proceeding, whether actual or threatened, to which any such person may be made a party by reason of the fact that such person is or was a director or officer of the Registrant or any of its affiliated enterprises, provided such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Registrant. Indemnification may not be available for certain violations of U.S. federal securities law or actions brought under Japanese law and may be determined by the United States or Japanese courts to be unenforceable in such circumstances.

Item 7. EXEMPTION FROM REGISTRATION CLAIMED

Not applicable.

Item 8. EXHIBITS

| Exhibit Number | Description |
|-------------------|--|
| 4.1 | Articles of Incorporation of the Registrant (English translation) |
| 4.2 | Share Handling Regulations of the Registrant (English translation) |
| 5.1 | Opinion and consent of Mitsui, Yasuda, Wani & Maeda |
| 23.1 | Consent of PricewaterhouseCoopers |

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- 23.2 -- Consent of Mitsui, Yasuda, Wani & Maeda (included in Exhibit 5.1)
 - 24.1 -- Power of Attorney (included in Part II of this Registration Statement)
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Item 9. UNDERTAKINGS

- (1) The undersigned Registrant hereby undertakes:
 - (a) To file, during any period in which offers or 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;
 - (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

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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)(i) and (a)(ii) do not apply if

the registration statement is on Form S-3, Form S-8 or Form F-3, and 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 Securities Exchange Act of 1934 that are incorporated by reference in the registration statement.

- (b) 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.
- (c) 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.

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(2) 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 Securities Exchange Act of 1934 (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15 (d) of the Securities Exchange Act of 1934) 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.

(3) The undersigned Registrant hereby undertakes that, 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 Commission 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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SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, 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, on April 10, 2002.

Trend Micro Incorporated

By: /s/ Chang Ming-Jang

Name: Chang Ming-Jang
Title: Representative Director;
President, Chief Executive Officer
and Chairman of the Board

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Yuzuru Nanami and Hiroshi Takada, and each of them, his attorneys-in-fact, each with the power of substitution for him in any and all capacities, to sign any post-effective amendments to this Registration Statement on Form S-8 and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that each of said attorneys-in-fact, or his substitute or substitutes, may do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended,

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this Registration Statement has been signed by the following persons in the following capacities on April 10, 2002.

| Name ----- | Title ----- |
|--|--|
| <p>/s/ Chang Ming-Jang ----- Chang Ming-Jang</p> | <p>Representative Director; President, Chief Executive Officer and Chairman of the Board (Principal Executive Officer)</p> |
| <p>/s/ Mike Conner ----- Mike Conner</p> | <p>Director, President of Trend Micro North America Operations, Senior Vice President (Authorized Representative in the United States)</p> |

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| Name ----- | Title ----- |
|--|---|
| <p>/s/ Mahendra Negi ----- Mahendra Negi</p> | <p>Representative Director, Chief Financial Officer and Executive Vice President (Principal Financial Officer and Principal Accounting Officer)</p> |
| <p>/s/ Nick Dederer ----- Nick Dederer</p> | <p>Director, Chief Operating Officer, Executive Vice President</p> |
| <p>----- Chen Yi-Fen</p> | <p>Director, Chief Technology Officer and Executive Vice President</p> |
| <p>----- Edward Tian</p> | <p>Director</p> |

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EXHIBIT INDEX

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|----------------------------|----|--|
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