

NanoString Technologies Inc  
Form S-8  
July 10, 2013

As filed with the Securities and Exchange Commission on July 10, 2013

Registration No. 333-

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

**FORM S-8**  
**REGISTRATION STATEMENT**

*Under*

*The Securities Act of 1933*

**NANOSTRING TECHNOLOGIES, INC.**

(Exact name of Registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction of  
incorporation or organization)

**20-0094687**  
(I.R.S. Employer  
Identification Number)

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530 Fairview Avenue, N., Suite 2000

Seattle, Washington 98109

(206) 378-6266

(Address of principal executive offices, including zip code)

**2013 Equity Incentive Plan**

**2013 Employee Stock Purchase Plan**

**2004 Stock Option Plan, as amended**

(Full title of the plan)

**R. Bradley Gray**

**President and Chief Executive Officer**

530 Fairview Avenue, N., Suite 2000

Seattle, Washington 98109

(206) 378-6266

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

*Copies to:*

**Patrick J. Schultheis**

**Wilson Sonsini Goodrich & Rosati,**

**Professional Corporation**

**701 Fifth Avenue, Suite 5100**

**Seattle, Washington 98104**

**Kathryn Surace-Smith**

**NanoString Technologies, Inc.**

**530 Fairview Avenue, N., Suite 2000**

**Seattle, Washington 98109**

**(206) 378-6266**

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(206) 883-2500

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.

Large accelerated filer

Accelerated filer

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)(2)	Proposed Maximum Offering Price Per Share	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
Common stock, \$0.0001 par value per share:				
Outstanding under the 2013 Equity Incentive Plan	11,686	\$10.00(5)	\$116,860.00	\$15.94
To be issued under the 2013 Equity Incentive Plan	1,693,255(3)	\$8.50(6)	\$14,392,667.50	\$1,963.16
To be issued under the 2013 Employee Stock Purchase Plan	281,250	\$8.50(6)	\$2,390,625.00	\$326.09
Outstanding under the 2004 Stock Option Plan, as amended	1,783,895(4)	\$3.10(7)	\$5,530,074.50	\$754.31
<b>TOTAL:</b>	<b>3,770,086</b>		<b>\$22,430,227.00</b>	<b>\$3,059.50</b>

- (1) Pursuant to Rule 416(a) of the Securities Act of 1933, as amended, this Registration Statement shall also cover any additional shares of the Registrant's common stock that become issuable under the 2013 Equity Incentive Plan ( 2013 Plan ), 2013 Employee Stock Purchase Plan ( 2013 ESPP ) and 2004 Stock Option Plan, as amended, ( 2004 Plan ) by reason of any stock dividend, stock split, recapitalization or other similar transaction effected without receipt of consideration that increases the number of the Registrant's outstanding shares of common stock.
- (2) For the sole purpose of calculating the registration fee, the amount to be registered under this Registration Statement has been broken down into four subtotals.
- (3) Shares of common stock reserved for issuance under the 2013 Plan consist of (a) 1,550,814 shares of common stock to be issued under the 2013 Plan plus (b) 142,441 shares of common stock previously reserved but unissued under the 2004 Plan that are now available for issuance under the 2013 Plan. To the extent outstanding awards under the 2004 Plan expire or terminate and would otherwise have been returned to the share reserve under the 2004 Plan, the shares of common stock subject to such awards instead will be available for future issuance under the 2013 Plan. See footnote 4 below.
- (4) Any such shares of common stock that are subject to awards under the 2004 Plan which expire or terminate and would otherwise have been returned to the share reserve under the 2004 Plan will be available for issuance under the 2013 Plan. See footnote 3 above.
- (5) Estimated in accordance with Rule 457(h) solely for the purposes of calculating the registration fee. The price of \$10.00 per share represents the exercise price per share.
- (6) Estimated in accordance with Rule 457(h) solely for purposes of calculating the registration fee on the basis of \$8.50, the average of the high and low prices of the Registrant's common stock as reported on The NASDAQ Global Market on July 3, 2013.
- (7) Estimated in accordance with Rule 457(h) solely for the purpose of calculating the registration fee on the basis of the weighted average exercise price of \$3.10 per share.

**PART I**

**INFORMATION REQUIRED IN THE PROSPECTUS**

The information specified in Item 1 and Item 2 of Part I of Form S-8 is omitted from this Registration Statement on Form S-8 (the **Registration Statement**) in accordance with the provisions of Rule 424 under the Securities Act of 1933, as amended (the **Securities Act**), and the introductory note to Part I of Form S-8. The documents containing the information specified in Part I of Form S-8 will be delivered to the participants in the equity benefit plans covered by this Registration Statement as specified by Rule 428(b)(1) under the Securities Act.

**PART II**

**INFORMATION REQUIRED IN REGISTRATION STATEMENT**

**Item 3. Incorporation of Documents by Reference.**

NanoString Technologies, Inc. (the **Registrant**) hereby incorporates by reference into this Registration Statement the following documents previously filed with the Securities and Exchange Commission (the **Commission**):

(1) The Registrant's Prospectus dated June 25, 2013, filed with the Commission pursuant to Rule 424(b) under the Securities Act, relating to the Registration Statement on Form S-1, as amended (File No. 333-188704), which contains the Registrant's audited financial statements for the latest fiscal year for which such statements have been filed; and

(2) The description of the Registrant's common stock contained in the Company's Registration Statement on Form 8-A (File No. 001-35980) filed with the Commission on June 21, 2013, pursuant to Section 12(b) of the Securities Exchange Act of 1934, as amended (the **Exchange Act**), including any amendment or report filed for the purpose of updating such description.

All documents filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act on or after the date of this Registration Statement and prior to the filing of a post-effective amendment to this Registration Statement 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 in this Registration Statement and to be part hereof from the date of filing of such documents; *provided, however*, that documents or information deemed to have been furnished and not filed in accordance with the rules of the Commission shall not be deemed incorporated by reference into 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 purposes of this Registration Statement to the extent that a statement contained herein or in any subsequently filed document which also is deemed to be incorporated by reference herein modifies or supersedes such 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.

**Item 4. Description of Securities.**

Not applicable.

**Item 5. Interests of Named Experts and Counsel.**

The validity of the shares of common stock offered hereby will be passed upon for the Registrant by Wilson Sonsini Goodrich & Rosati, Professional Corporation, Seattle, Washington. Investment funds associated with Wilson Sonsini Goodrich & Rosati, Professional Corporation hold an aggregate of 7,593 shares of the Registrant's common stock, which represent less than 1.0% of the Registrant's outstanding shares of common stock.

**Item 6. Indemnification of Directors and Officers.**

Section 145 of the Delaware General Corporation Law empowers a corporation to indemnify its directors and officers and to purchase insurance with respect to liability arising out of their capacity or status as directors and officers, provided that the person acted in good faith and in a manner the person reasonably believed to be in its best interests, and, with respect to any criminal action, had no reasonable cause to believe the person's actions were unlawful. The Delaware General Corporation Law further provides that the indemnification permitted thereunder shall not be deemed exclusive of any other rights to which the directors and officers may be entitled under the corporation's bylaws, any agreement, a vote of stockholders or otherwise. The certificate of incorporation of the Registrant provides for the indemnification of the Registrant's directors and officers to the fullest extent permitted under the Delaware General Corporation Law. In addition, the bylaws of the Registrant require the Registrant to fully indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding (whether civil, criminal, administrative or investigative) by reason of the fact that such person is or was a director, or officer of the Registrant, or is or was a director or officer of the Registrant serving at the Registrant's request as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorney's fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding, to the fullest extent permitted by applicable law.

Section 102(b)(7) of the Delaware General Corporation Law permits a corporation to provide in its certificate of incorporation that a director of the corporation shall not be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except (1) for any breach of the director's duty of loyalty to the corporation or its stockholders, (2) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (3) for payments of unlawful dividends or unlawful stock repurchases or redemptions or (4) for any transaction from which the director derived an improper personal benefit. The Registrant's certificate of incorporation provides that the Registrant's directors shall not be personally liable to it or its stockholders for monetary damages for breach of fiduciary duty as a director and that if the Delaware General Corporation Law is amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of the Registrant's directors shall be eliminated or limited to the fullest extent permitted by the Delaware General Corporation Law, as so amended.

Section 174 of the Delaware General Corporation Law provides, among other things, that a director who willfully or negligently approves of an unlawful payment of dividends or an unlawful stock purchase or redemption may be held liable for such actions. A director who was either absent when the unlawful actions were approved, or dissented at the time, may avoid liability by causing his or her dissent to such actions to be entered in the books containing minutes of the meetings of the board of directors at the time such action occurred or immediately after such absent director receives notice of the unlawful acts.

As permitted by the Delaware General Corporation Law, the Registrant has entered into separate indemnification agreements with each of the Registrant's directors and certain of the Registrant's officers which require the Registrant, among other things, to indemnify them against certain liabilities which may arise by reason of their status as directors, officers or certain other employees.

The Registrant expects to obtain and maintain insurance policies under which its directors and officers are insured, within the limits and subject to the limitations of those policies, against certain expenses in connection with the defense of, and certain liabilities which might be imposed as a result of, actions, suits or proceedings to which they are parties by reason of being or having been directors or officers. The coverage provided by these policies may apply whether or not the Registrant would have the power to indemnify such person against such liability under the provisions of the Delaware General Corporation Law.

These indemnification provisions and the indemnification agreements entered into between the Registrant and the Registrant's officers and directors may be sufficiently broad to permit indemnification of the Registrant's officers and directors for liabilities (including reimbursement of expenses incurred) arising under the Securities Act of 1933.

The underwriting agreement between the Registrant and the underwriters filed as Exhibit 1.1 to the Registrant's Registration Statement on Form S-1, as amended (File No. 333-188704), provides for the indemnification by the underwriters of the Registrant's directors and officers and certain controlling persons against specified liabilities, including liabilities under the Securities Act with respect to information provided by the underwriters specifically for inclusion in the registration statement.

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

Not applicable.

**Item 8. Exhibits**

Exhibit Number	Exhibit Description	Form	Incorporated by Reference		
			File No.	Exhibit	Filing Date
4.1	Specimen Common Stock Certificate of the Registrant.	S-1/A	333-188704	4.1	June 13, 2013
4.2	2004 Stock Option Plan, as amended.	S-1	333-188704	10.2	May 20, 2013
4.3	Form of Notice of Stock Option Grant and Stock Option Agreement under the 2004 Stock Option Plan, as amended.	S-1	333-188704	10.3	May 20, 2013
4.4	Form of Notice of Stock Option Grant and Stock Option Agreement permitting early exercise under the 2004 Stock Option Plan, as amended.	S-1	333-188704	10.4	May 20, 2013
4.5	2013 Equity Incentive Plan.	S-1/A	333-188704	10.5	June 13, 2013
4.6	Form of Notice of Stock Option Grant and Stock Option Agreement under the 2013 Equity Incentive Plan.	S-1/A	333-188704	10.6	June 13, 2013
4.7	Form of Notice of Restricted Stock Grant and Restricted Stock Agreement under the 2013 Equity Incentive Plan.	S-1/A	333-188704	10.7	June 13, 2013
4.8	Form of Notice of Restricted Stock Unit Grant and Restricted Stock Unit Agreement under the 2013 Equity Incentive Plan.	S-1/A	333-188704	10.8	June 13, 2013
4.9	2013 Employee Stock Purchase Plan.	S-1/A	333-188704	10.9	June 13, 2013

- 5.1 Opinion of Wilson Sonsini Goodrich & Rosati, Professional Corporation.
- 23.1 Consent of PricewaterhouseCoopers LLP, Independent Registered Public Accounting Firm.
- 23.2 Consent of Wilson Sonsini Goodrich & Rosati, Professional Corporation (contained in Exhibit 5.1 hereto).
- 24.1 Power of Attorney (contained on signature page hereto).

**Item 9. Undertakings.**

A. The undersigned 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:

(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 a 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) do 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 Securities Exchange Act of 1934 that are incorporated by reference in this 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 of 1933, 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.

C. Insofar as indemnification for liabilities arising under the Securities Act of 1933 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 of 1933 and will be governed by the final adjudication of such issue.

**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, in the City of Seattle, State of Washington, on July 10, 2013.

**NANOSTRING TECHNOLOGIES, INC.**

By: /s/ R. Bradley Gray  
 R. Bradley Gray  
 President and Chief Executive Officer

**POWER OF ATTORNEY**

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints R. Bradley Gray and James A. Johnson as his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him or her and in his or her name, place and stead, in any and all capacities (including his or her capacity as a director and/or officer of NanoString Technologies, Inc.) to sign the Registration Statement on Form S-8 of NanoString Technologies, Inc., and any or all amendments (including post-effective amendments) thereto, and to file the same, with all exhibits thereto and all other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as they, he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or their, his or her substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement on Form S-8 has been signed by the following persons in the capacities indicated below:

<b>Signature</b>	<b>Title</b>	<b>Date</b>
/s/ R. Bradley Gray	President, Chief Executive Officer and	July 10, 2013
R. Bradley Gray	Director (Principal Executive Officer)	
/s/ James A. Johnson	Chief Financial Officer (Principal	July 10, 2013
James A. Johnson	Accounting and Financial Officer)	
/s/ William D. Young	Chairman of the Board and Directors	July 10, 2013
William D. Young		
/s/ Bradford Crutchfield	Director	July 10, 2013
Bradford Crutchfield		
/s/ Jennifer Scott Fonstad	Director	July 10, 2013
Jennifer Scott Fonstad		

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<b>Signature</b>	<b>Title</b>	<b>Date</b>
/s/ Nicholas Galakatos Nicholas Galakatos	Director	July 10, 2013
/s/ Finny Kuruvilla Finny Kuruvilla	Director	July 10, 2013
/s/ Gregory Norden Gregory Norden	Director	July 10, 2013
/s/ Charles P. Waite Charles P. Waite	Director	July 10, 2013

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