

MICROVISION INC  
Form 8-K  
November 15, 2011

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

**FORM 8-K**

**CURRENT REPORT**

Pursuant to Section 13 or 15(d) of the  
Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): November 11, 2011

**MICROVISION, INC.**

(Exact Name of Registrant as Specified in Charter)

**Delaware**  
(State or Other Jurisdiction of  
Incorporation)

**001-34170**  
(Commission File Number)

**91-1600822**  
(IRS Employer

**6222 185<sup>th</sup> Avenue NE**

Identification No.)

**Redmond, Washington 98052**

(Address of Principal Executive Offices) (Zip Code)

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Registrant's telephone number, including area code: (425) 936-6847

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

**Item 1.01. Entry into a Material Definitive Agreement.**  
**Underwriting Agreement**

On November 11, 2011, MicroVision, Inc. (the Company) entered into an underwriting agreement (the Underwriting Agreement) with Oppenheimer & Co. Inc. (the Underwriter). The Underwriting Agreement provides for the sale of (i) an aggregate of 17,948,716 shares (Shares) of common stock, par value \$0.001 per share (Common Stock), and (ii) warrants to purchase an aggregate of 8,974,358 shares of Common Stock (the Warrants). The shares of Common Stock and Warrants are being sold as units (Units), with each Unit consisting of one Share and one Warrant to purchase 0.5 shares of Common Stock, at a public offering price of \$0.585 per Unit, less the underwriting discounts and commissions payable by the Company (the Offering). The Underwriter will purchase the Units at a discounted price of \$0.5499 per Unit. In addition, the Company granted the Underwriter a 30-day option to purchase an additional 2,692,306 Shares and Warrants to purchase an additional 1,346,153 shares of Common Stock solely to cover over-allotments. The transactions contemplated by the Underwriting Agreement are expected to close on November 16, 2011, subject to the satisfaction of customary closing conditions. The Shares and the Warrants are being offered and sold pursuant to the Company's registration statement on Form S-3 (Registration No. 333-175419).

The underwriting agreement also provides that on the closing date of the Offering, the Company must deliver to Azimuth Opportunities Ltd. (Azimuth) notices of termination to terminate each of the two common stock purchase agreements between the Company and Azimuth, dated May 4, 2011 and September 13, 2011, which provided for committed equity, or equity line, financing.

**Warrant Agreement**

Upon closing of the Offering, the Company will enter into a warrant agreement (the Warrant Agreement) with the American Stock Transfer and Trust Company, as warrant agent, pursuant to which the Warrants will be issued at an exercise price equal to \$0.78 per share. The warrants will be exercisable at any time beginning on the date of issuance until the five-year anniversary of the date of initial issuance. The warrants may be exercised by surrendering to the warrant agent the warrant certificate evidencing the warrants to be exercised with the accompanying exercise notice, appropriately completed, duly signed and delivered, together with cash payment of the exercise price, if applicable.

In the event of an extraordinary transaction, as described in the warrants and generally including any merger with or into another entity, sale of all or substantially all of our assets, tender offer or exchange offer, or reclassification of our common stock, in which the amount of the alternate consideration is less than the exercise price of the warrant, then we or any successor entity shall pay at the holder's option, exercisable at any time concurrently with or within thirty (30) days after the consummation of the fundamental transaction, an amount of cash equal to the value of the warrant as determined in accordance with the Black Scholes option pricing model.

Upon surrender of the warrant certificate, with the exercise notice appropriately completed and duly signed and cash payment of the exercise price, if applicable, on and subject to the terms and conditions of the warrant agreement, we will deliver or cause to be delivered, to or upon the written order of such holder, the number of whole shares of common stock to which the holder is entitled, which shares may be delivered in book-entry form. If fewer than all of the warrants evidenced by a warrant certificate are to be exercised, a new warrant certificate will be issued for the remaining number of warrants.

If, and only if, a registration statement relating to the issuance of the shares underlying the warrants is not then effective or available, a holder of warrants would only be entitled to exercise the warrants on a cashless basis, where the holder receives the net value of the warrant in shares of common stock. Holders of warrants also will be able to exercise their warrants only if the shares of common stock underlying the warrant are qualified for sale or are

at the time exempt from qualification under the applicable securities or blue sky laws of the states in which such holder (or other persons to whom it is proposed that shares be issued on exercise of the warrants) reside. Shares issued pursuant to a cashless exercise would be freely tradable without restriction or further registration under the Securities Act by persons other than our affiliates (within the meaning of Rule 144 under the Securities Act).

The exercise price and the number and type of securities purchasable upon exercise of warrants are subject to adjustment upon certain corporate events, including certain combinations, consolidations, liquidations, mergers, recapitalizations, reclassifications, reorganizations, stock dividends and stock splits, a sale of all or substantially all of our assets and certain other events.

No fractional shares will be issued upon exercise of the warrants. The warrants do not confer upon holders any voting or other rights as stockholders of the Company.

A copy of the opinion of Ropes & Gray LLP relating to the legality of the issuance and sale of the securities in the Offering is attached as Exhibit 5.1 hereto. Copies of the Underwriting Agreement and the Warrant Agreement are filed herewith as Exhibits 1.1 and 4.1, respectively, and are incorporated herein by reference. The foregoing description of the Offering by the Company and the documentation related thereto does not purport to be complete and is qualified in its entirety by reference to such exhibits.

**Item 7.01. Regulation FD Disclosure.**

On November 11, 2011, the Company issued the press release attached as Exhibit 99.1 to this Current Report on Form 8-K.

The information in this Item 7.01 and Exhibit 99.1 is being furnished pursuant to Item 7.01 and shall not be deemed filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the Exchange Act), or incorporated by reference into those filings of the Company that provide for the incorporation of all reports and documents filed by the Company under the Exchange Act.

***Certain Forward-Looking Statements***

This Current Report on Form 8-K may contain certain statements contained in this release, including those relating to closing of the offering, as well as statements containing words like *expected*, and other similar expressions, are forward-looking statements that involve a number of risks and uncertainties. All such forward-looking statements are subject to certain risks and uncertainties that could cause actual results to differ materially from those in the forward-looking statements, including the risk that the transaction described above may not be completed. These risks and uncertainties include, but are not limited to those detailed from time to time in our Securities and Exchange Commission filings.

Readers are urged to consider these factors carefully in evaluating the forward-looking statements. The forward-looking statements included in this Current Report are made only as of the date of this Current Report and the company undertakes no obligation to publicly update these forward-looking statements to reflect subsequent events or circumstances.

**Item 9.01. Financial Statements and Exhibits.**

(d) *Exhibits.*

1.1 Underwriting Agreement by and between MicroVision, Inc. and Oppenheimer & Co. Inc. dated November 11, 2011.

4.1 Form of Warrant Agreement by and between MicroVision, Inc. and the American Stock Transfer and Trust Company.

5.1 Opinion of Ropes & Gray LLP.

23.1 Consent of Ropes & Gray LLP (contained in Exhibit 5.1 above).

99.1 MicroVision, Inc. Press Release, dated November 11, 2011.

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

MICROVISION, INC.

By: */s/ Thomas M. Walker*  
Thomas M. Walker  
*Vice President, General Counsel & Secretary*

Date: November 14, 2011