

NetApp, Inc.
Form SC TO-I/A
June 23, 2009

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

AMENDMENT NO. 5 to

SCHEDULE TO

(Rule 13e-4)

***Tender Offer Statement Under Section 14(d)(1) or 13(e)(1)
of the Securities Exchange Act of 1934***

NetApp, Inc.

(Name of Subject Company (Issuer) and Filing Person (Offeror))

Options to Purchase Common Stock, \$0.001 par value

(Title of Class of Securities)

64110D104

(CUSIP Number of Class of Securities Underlying Common Stock)

Daniel J. Warmenhoven

Chief Executive Officer and Director

NetApp, Inc.

495 East Java Drive,

Sunnyvale, California 94089

(408) 822-6000

**(Name, address and telephone numbers of person authorized to receive notices and
communications on behalf of filing persons)**

Copies to:

Steven E. Bochner, Esq.

Wilson Sonsini Goodrich & Rosati

Professional Corporation

650 Page Mill Road

Palo Alto, CA 94304-1050

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CALCULATION OF FILING FEE

| TRANSACTION VALUATION* | AMOUNT OF FILING FEE |
|-------------------------------|---------------------------------|
| \$577,573,970 | \$32,228.63 |

* Calculated solely for purposes of determining the filing fee. This amount assumes that options to purchase 36,102,463 shares of common stock of NetApp, Inc. having an aggregate value of \$577,573,970 as of May 12, 2009 will be exchanged or cancelled pursuant to this offer. The aggregate value of such securities was calculated based on the Black-Scholes option pricing model. The amount of the filing fee, calculated in accordance with the Securities Exchange Act of 1934, as amended, equals \$55.80 for each \$1,000,000 of the value of this transaction.

Check box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

Amount Previously Paid: \$32,228.63

Form of Registration No.: 005-48933

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Filing Party: NetApp, Inc.

Date Filed: May 22, 2009

- Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

Check the appropriate boxes below to designate any transactions to which the statement relates:

- third-party tender offer subject to Rule 14d-1.
- issuer tender offer subject to Rule 13e-4.
- going-private transaction subject to Rule 13e-3.
- amendment to Schedule 13D under Rule 13d-2.

Check the following box if the filing is a final amendment reporting the results of the tender offer:

If applicable, check the appropriate box(es) below to designate the appropriate rule provision(s) relied upon:

- Rule 13e-4(i) (Cross-Border Issuer Tender Offer).
 - Rule 14d-1(d) (Cross-Border Third-Party Tender Offer).
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This Amendment No. 5 (this **Amendment No. 5**) amends and supplements the Tender Offer Statement on Schedule TO (**Schedule TO**) filed with the Securities and Exchange Commission on May 22, 2009, as previously amended and supplemented on June 1, 2009, June 12, 2009, June 16, 2009 and June 17, 2009, relating to an offer by NetApp, Inc. (the **Company**) to employees of the Company (excluding executives and directors) who held certain options to purchase shares of the Company's common stock (such options, **eligible options**) to exchange such eligible options for restricted stock units.

Pursuant to Rule 12b-15 under the Securities Exchange Act of 1934, as amended (the **Exchange Act**), this Amendment No. 5 amends and supplements only Item 4 of the Schedule TO in the manner set forth below. All other items and exhibits contained in the Schedule TO remain unaffected.

This Amendment No. 5 is filed in satisfaction of the reporting requirements of Rule 13e-4(c)(4) promulgated under the Exchange Act.

Item 4. Terms of the Transaction.

(a) Material Terms

Item 4 of the Schedule TO is hereby amended to add the following information:

The offer expired on June 19, 2009 at 9:00 p.m. Pacific Time. A total of 3,917 eligible employees participated in the offer. Pursuant to the terms and conditions of the Offer to Exchange, the Company accepted for exchange options to purchase 24,484,008 shares of the Company's common stock, representing 70.5% of the total options eligible for exchange. All surrendered options were cancelled, and immediately thereafter, the Company issued a total of 3,255,878 restricted stock units in exchange therefore, pursuant to the terms of the Offer to Exchange and the 1999 Plan. One share of the Company's common stock is issuable upon the vesting of each restricted stock unit.

SIGNATURE

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this Schedule TO is true, complete and correct.

NETAPP, INC.

Date: June 23, 2009