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

**FORM S-8
REGISTRATION STATEMENT**
*UNDER
THE SECURITIES ACT OF 1933*

Scilex Holding Company
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

92-1062542
(I.R.S. Employer
Identification No.)

Scilex Holding Company
960 San Antonio Road
Palo Alto, CA 94303
(Address of Principal Executive Offices) (Zip Code)

Scilex Holding Company 2022 Equity Incentive Plan, as amended
Scilex Holding Company 2022 Employee Stock Purchase Plan
(Full titles of the plans)

Jaisim Shah
Chief Executive Officer & President
960 San Antonio Road
Palo Alto, CA 94303
(650) 516-4310
(Name, address and telephone number, including area code, of agent for service)

Copies to:

Jeffrey T. Hartlin, Esq.
Elizabeth A. Razzano, Esq.
Paul Hastings LLP
1117 S. California Avenue
Palo Alto, California 94304
(650) 320-1800

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, 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
Non-accelerated filer

Accelerated filer
Smaller reporting company
Emerging growth company

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

Scilex Holding Company (the “Registrant”) has prepared this Registration Statement on Form S-8 (the “Registration Statement”) in accordance with the requirements of Form S-8 under the Securities Act of 1933, as amended (the “Securities Act”), to register (i) 6,403,370 additional shares of common stock, \$0.0001 par value per share (“Common Stock”), of the Registrant issuable pursuant to the Scilex Holding Company 2022 Equity Incentive Plan, as amended (the “2022 Plan”) and (ii) 1,600,842 additional shares of Common Stock issuable pursuant to the Scilex Holding Company 2022 Employee Stock Purchase Plan (the “2022 ESPP”). The Registrant’s stockholders have previously approved the 2022 Plan and the 2022 ESPP, including the shares of Common Stock available for issuance pursuant thereto.

Pursuant to the Registration Statement on Form S-8 ([File No. 333-269256](#)) filed by the Registrant with the Securities and Exchange Commission (the “Commission”) on January 17, 2023 and the Registration Statement on Form S-8 ([File No. 333-271739](#)) filed by the Registrant with the Commission on May 9, 2023 (together, the “Prior Registration Statements”), the Registrant previously registered an aggregate of 46,471,844 shares of Common Stock under the 2022 Plan and 2,875,759 shares of Common Stock under the 2022 ESPP.

In accordance with General Instruction E to Form S-8, the contents of the Prior Registration Statements are hereby incorporated by reference.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

ITEM 3. INCORPORATION OF DOCUMENTS BY REFERENCE.

The following documents filed by the Registrant with the Commission are hereby incorporated by reference into this Registration Statement:

- (a) The Registrant's Annual Report on [Form 10-K](#) for the year ended December 31, 2023, filed with the Commission on March 12, 2024; and
- (b) The Registrant's Current Reports on Form 8-K filed with the Commission on [February 16, 2024](#), [February 20, 2024](#), [February 27, 2024](#), [February 29, 2024](#), [March 5, 2024](#), [March 22, 2024](#), [March 25, 2024](#) and [March 27, 2024](#);
- (c) The description of the Registrant's Common Stock contained in its Registration Statement on Form S-1 (File No. [333-275117](#)), filed with the Commission on November 20, 2023, pursuant to Section 12(b) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), including any amendments or reports filed for the purpose of updating, amending, or otherwise modifying such description.

All other reports and other documents subsequently filed by the Registrant pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act prior to the filing of a post-effective amendment which indicates that all securities offered hereby have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference into this Registration Statement and to be a part of this Registration Statement from the date of the filing of such reports and documents, except as to any portion of any future annual or quarterly report to stockholders or document or current report furnished under Items 2.02 or 7.01 of Form 8-K that is not deemed filed under such provisions.

For the purposes 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 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 such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

You should rely only on the information provided or incorporated by reference in this Registration Statement or any related prospectus. The Registrant has not authorized anyone to provide you with different information. You should not assume that the information in this Registration Statement or any related prospectus is accurate as of any date other than the date on the front of the document.

You may contact the Registrant in writing or orally to request copies of the above-referenced filings, without charge (excluding exhibits to such documents unless such exhibits are specifically incorporated by reference into the information incorporated into this Registration Statement). Requests for such information should be directed to:

Scilex Holding Company
960 San Antonio Road
Palo Alto, CA 94303
Attn: Investor Relations
Phone: (650) 516-4310

ITEM 8. EXHIBITS.

Exhibit Number	Description
4.1	<u>Restated Certificate of Incorporation of the Registrant (incorporated by reference to Exhibit 3.1 to the Current Report on Form 8-K filed by the Registrant on November 17, 2022).</u>
4.2	<u>Bylaws of the Registrant (incorporated by reference to Exhibit 3.3 to the Current Report on Form 8-K filed by the Registrant on November 17, 2022).</u>
4.3	<u>Scilex Holding Company 2022 Equity Incentive Plan, as amended (incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K filed by the Registrant on May 5, 2023).</u>
4.4	<u>Scilex Holding Company 2022 Employee Stock Purchase Plan (incorporated by reference to Exhibit 10.8 to the Current Report on Form 8-K filed by the Registrant on November 17, 2022).</u>
5.1*	<u>Opinion of Paul Hastings LLP.</u>
23.1*	<u>Consent of Ernst & Young LLP, independent registered public accounting firm.</u>
23.2*	<u>Consent of Paul Hastings LLP (included in Exhibit 5.1).</u>
24.1*	<u>Power of Attorney is contained on the signature page.</u>
107*	<u>Filing Fee Table</u>

* Filed herewith.

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 Palo Alto, State of California, on March 27, 2024.

Scilex Holding Company

By: /s/ Jaisim Shah

Name: Jaisim Shah

Title: Chief Executive Officer and President

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints each of Jaisim Shah and Stephen Ma, and each or any one of them, as his or her true and lawful attorneys-in-fact and agent, 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, 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 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 connection therewith, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them or their or his substitutes or substitute, 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 has been signed by the following persons in the capacities and on the dates indicated.

<u>SIGNATURE</u>	<u>TITLE</u>	<u>DATE</u>
<u>/s/ Jaisim Shah</u> Jaisim Shah	Chief Executive Officer, President and Director (Principal Executive Officer)	March 27, 2024
<u>/s/ Stephen Ma</u> Stephen Ma	Chief Financial Officer (Principal Financial and Accounting Officer)	March 27, 2024
<u>/s/ Henry Ji, Ph.D.</u> Henry Ji, Ph.D.	Executive Chairperson and Director	March 27, 2024
<u>/s/ Dorman Followwill</u> Dorman Followwill	Director	March 27, 2024
<u>/s/ Yue Alexander Wu, Ph.D.</u> Yue Alexander Wu, Ph.D.	Director	March 27, 2024
<u>/s/ Jay Chun, M.D., Ph.D.</u> Jay Chun, M.D., Ph.D.	Director	March 27, 2024
<u>/s/ David Lemus</u> David Lemus	Director	March 27, 2024

PAUL HASTINGS

March 27, 2024

Scilex Holding Company
960 San Antonio Road
Palo Alto, CA 94303

Re: Registration Statement on Form S-8

Ladies and Gentlemen:

We have acted as counsel to Scilex Holding Company, a Delaware corporation (the “*Company*”), in connection with the preparation of the registration statement on Form S-8 to be filed by the Company with the U.S. Securities and Exchange Commission (the “*Commission*”) on or about the date hereof (the “*Registration Statement*”) to effect registration under the Securities Act of 1933, as amended (the “*Securities Act*”), of an aggregate of 8,004,212 shares (the “*Shares*”) of the Company’s common stock, \$0.0001 par value per share (“*Common Stock*”), comprised of (i) 6,403,370 shares of Common Stock issuable upon the vesting and exercise of awards to be granted by the Company pursuant to the Scilex Holding Company 2022 Equity Incentive Plan, as amended (the “*2022 Plan*”) and (ii) 1,600,842 shares of Common Stock issuable upon the exercise of purchase rights to be granted by the Company pursuant to the Scilex Holding Company 2022 Employee Stock Purchase Plan (the “*ESPP*” and, together with the 2022 Plan, the “*Plans*”).

As such counsel and for purposes of our opinion set forth below, we have examined and relied upon originals or copies, certified or otherwise identified to our satisfaction, of such documents, resolutions, certificates and instruments of the Company and corporate records furnished to us by the Company, and have reviewed certificates of public officials, statutes, records and such other instruments and documents as we have deemed necessary or appropriate as a basis for the opinion set forth below, including, without limitation:

- (i) the Registration Statement;
- (ii) the Restated Certificate of Incorporation of the Company, as certified as of March 27, 2024 by the Office of the Secretary of State of the State of Delaware;
- (iii) the Certificate of Designations of the Company, as certified as of March 27, 2024 by the Office of the Secretary of State of the State of Delaware;
- (iv) the Bylaws of the Company as presently in effect, as certified by an officer of the Company on March 27, 2024;
- (v) the Plans and the forms of award agreements related thereto that were attached as exhibits to the Registration Statement or otherwise incorporated by reference into the exhibits of the Registration Statement;
- (vi) a certificate, dated as of March 27, 2024, from the Office of the Secretary of State of the State of Delaware, as to the existence and good standing of the Company in the State of Delaware (the “*Good Standing Certificate*”); and

- (vii) the resolutions adopted by the board of directors of the Company and approvals by the stockholder of the Company regarding the Plans, and other matters related thereto, as certified by an officer of the Company on March 27, 2024.

In addition to the foregoing, we have made such investigations of law as we have deemed necessary or appropriate as a basis for the opinion set forth in this opinion letter.

In such examination and in rendering the opinion expressed below, we have assumed, without independent investigation or verification: (i) the genuineness of all signatures on all agreements, instruments, corporate records, certificates and other documents submitted to us; (ii) the authenticity and completeness of all agreements, instruments, corporate records, certificates and other documents submitted to us as originals; (iii) that all agreements, instruments, corporate records, certificates and other documents submitted to us as certified, electronic, facsimile, conformed, photostatic or other copies conform to originals thereof, and that such originals are authentic and complete; (iv) the legal capacity and authority of all persons or entities (other than the Company) executing all agreements, instruments, corporate records, certificates and other documents submitted to us; (v) the due authorization, execution and delivery of all agreements, instruments, corporate records, certificates and other documents by all parties thereto (other than the Company); (vi) that no documents submitted to us have been amended or terminated orally or in writing except as has been disclosed to us in writing; (vii) that the statements contained in the certificates and comparable documents of public officials, officers and representatives of the Company and other persons on which we have relied for the purposes of this opinion letter are true and correct; (viii) that there has not been any change in the good standing status of the Company from that reported in the Good Standing Certificate; and (ix) that each of the officers and directors of the Company has properly exercised his or her fiduciary duties. As to all questions of fact material to this opinion letter, and as to the materiality of any fact or other matter referred to herein, we have relied (without independent investigation or verification) upon representations and certificates or comparable documents of officers and representatives of the Company. Our knowledge of the Company and its legal and other affairs is limited by the scope of our engagement, which scope includes the delivery of this opinion letter. We do not represent the Company with respect to all legal matters or issues. The Company may employ other independent counsel and, to our knowledge, handles certain legal matters and issues without the assistance of independent counsel. We have also assumed that (i) the individual issuances, grants, awards or grants of purchase rights under the 2022 Plan and (ii) the individual issuances or grants of purchase rights under the ESPP will be duly authorized by all necessary corporate action of the Company and duly issued, granted or awarded and exercised in accordance with the requirements of law, the 2022 Plan and the agreements, forms of instrument, awards and grants duly adopted thereunder, and the ESPP and the subscription agreements duly adopted thereunder.

Based upon the foregoing, and in reliance thereon, and subject to the assumptions, limitations, qualifications and exceptions set forth herein, we are of the opinion that the Shares are duly authorized and, when issued and sold as described in the Registration Statement and in accordance with the Plans and (i) the applicable award agreements or forms of instrument evidencing purchase rights under the 2022 Plan and (ii) the applicable subscription agreements under the ESPP (including the receipt by the Company of the full consideration therefor), will be validly issued, fully paid and nonassessable.

Without limiting any of the other limitations, exceptions and qualifications stated elsewhere herein, we express no opinion with regard to the applicability or effect of the laws of any jurisdiction other than the General Corporation Law of the State of Delaware, as in effect on the date of this opinion letter.

Scilex Holding Company
March 27, 2024
Page 3

This opinion letter deals only with the specified legal issues expressly addressed herein, and you should not infer any opinion that is not explicitly stated herein from any matter addressed in this opinion letter.

This opinion letter is rendered solely in connection with the issuance and delivery of the Shares as described in the Registration Statement and in accordance with the terms of (i) the 2022 Plan and the applicable award agreement or form of instrument evidencing purchase rights thereunder and (ii) the ESPP and the subscription agreements thereunder. This opinion letter is rendered as of the date hereof, and we assume no obligation to advise you or any other person with regard to any change after the date hereof in the circumstances or the law that may bear on the matters set forth herein after the effectiveness of the Registration Statement even if the change may affect the legal analysis or a legal conclusion or other matters in this opinion letter.

We hereby consent to the filing of this opinion letter as Exhibit 5.1 to the Registration Statement. In giving such consent, we do not hereby admit that we are within the category of persons whose consent is required under Section 7 of the Securities Act or the rules or regulations of the Commission thereunder.

Very truly yours,

/s/ Paul Hastings LLP

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the Registration Statement (Form S-8) pertaining to the Scilex Holding Company 2022 Equity Incentive Plan, as amended, and the Scilex Holding Company 2022 Employee Stock Purchase Plan of our report dated March 11, 2024, with respect to the consolidated financial statements of Scilex Holding Company, included in its Annual Report (Form 10-K) for the year ended December 31, 2023, filed with the Securities and Exchange Commission.

/s/ Ernst & Young LLP

San Diego, California
March 27, 2024

Calculation of Filing Fee Tables

Form S-8
(Form Type)

Scilex Holding Company

(Exact name of Registrant as Specified in its Charter)

Table 1: Newly Registered Securities

	Security Type	Security Class Title	Fee Calculation Rule	Amount Registered ⁽¹⁾	Proposed Maximum Offering Price Per Unit	Maximum Aggregate Offering Price	Fee Rate	Amount of Registration Fee
Fees to be Paid	Equity	Common Stock, par value \$0.0001 per share	457(c) and (h)	6,403,370 ⁽²⁾	\$1.36 ⁽³⁾	\$8,708,583.20	\$0.00014760	\$1,285.39
	Equity	Common Stock, par value \$0.0001 per share	457(c) and (h)	1,600,842 ⁽⁴⁾	\$1.36 ⁽⁵⁾	\$2,177,145.12	\$0.00014760	\$321.35
Fees Previously Paid	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	Total Offering Amounts						\$10,885,728.32	\$1,606.74
	Total Fees Previously Paid							—
	Total Fee Offsets							—
	Net Fee Due							\$1,606.74

- (1) Pursuant to Rule 416(a) of the Securities Act of 1933, as amended (the “Securities Act”), this Registration Statement shall also cover any additional shares of the Registrant’s common stock, \$0.0001 par value per share (the “Common Stock”), that become issuable under the Scilex Holding Company 2022 Equity Incentive Plan, as amended (the “2022 Plan”) and the Scilex Holding Company 2022 Employee Stock Purchase Plan (the “2022 ESPP”), by reason of any stock dividend, stock split, recapitalization or other similar transaction effected without receipt of consideration that increases the number of outstanding shares of the Registrant’s Common Stock.
- (2) Represents shares of Common Stock that were automatically added to the shares reserved for issuance under the 2022 Plan on January 1, 2024 pursuant to an “evergreen” provision contained in the 2022 Plan. The 2022 Plan provides that an additional number of shares will automatically be added annually to the shares authorized under the 2022 Plan on January 1st of each year for a period of ten years, commencing on January 1, 2023 and ending on (and including) January 1, 2032, in an amount equal to the lesser of (i) 4.0% of the total number of shares of Common Stock outstanding on December 31st of the preceding year and (ii) 7,311,356 shares of Common Stock (subject to adjustment by reason of any stock dividend, stock split, recapitalization or other similar transaction); provided, however, that the Registrant’s board of directors may act prior to January 1st of a given year to provide that the increase for such year will be a lesser number of shares of Common Stock.
- (3) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(c) and Rule 457(h) of the Securities Act. The proposed maximum offering price per share and the proposed maximum aggregate offering price are calculated based on \$1.36 per share, the average of the high and low price of the Common Stock as reported on the Nasdaq Capital Market on March 20, 2024 (such date being within five business days prior to the date that this Registration Statement was filed with the U.S. Securities and Exchange Commission).
- (4) Represents shares of Common Stock that were automatically added to the shares reserved for issuance under the 2022 ESPP on January 1, 2024 pursuant to an “evergreen” provision contained in the 2022 ESPP. The 2022 ESPP provides that an additional number of shares will automatically be added annually to the shares authorized under the 2022 Plan on January 1st of each year for a period of ten years, commencing on January 1, 2023 and ending on (and including) January 1, 2032, in an amount equal to the lesser of (i) 1.0% of the total number of shares of Common Stock outstanding on December 31st of the preceding year and (ii) 1,827,839 shares of Common Stock (subject to adjustment by reason of any stock dividend, stock split, recapitalization or other similar transaction); provided, however, that the Registrant’s board of directors may act prior to January 1st of a given year to provide that the increase for such year will be a lesser number of shares of Common Stock.
- (5) Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(c) and Rule 457(h) of the Securities Act. The proposed maximum offering price per share and the proposed maximum aggregate offering price are calculated based on \$1.36 per share, the average of the high and low price of the Common Stock as reported on the Nasdaq Capital Market on March 20, 2024 (such date being within five business days prior to the date that this Registration Statement was filed with the U.S. Securities and Exchange Commission). Pursuant to the 2022 ESPP, the purchase price of the shares of Common Stock reserved for issuance thereunder will be 85% of the lower of fair market value of the Common Stock on (a) the first day of the offering period, and (b) the purchase date.