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

**FORM S-8
REGISTRATION STATEMENT**

*UNDER
THE SECURITIES ACT OF 1933*

EYENOVIA, INC.
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of incorporation or organization)

47-1178401
(I.R.S. Employer Identification No.)

**295 Madison Avenue, Suite 2400
New York, New York**
(Address of principal executive offices)

10017
(Zip code)

Eyenovia, Inc. Amended and Restated 2018 Omnibus Stock Incentive Plan
(Full title of the plan)

**Tsontcho Ianchulev
Chief Executive Officer
295 Madison Avenue, Suite 2400
New York, NY 10017
(917) 289-1117**
(Name, address and telephone number, including area code, of agent for service)

Copy to:
**Megan N. Gates, Esq.
Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
One Financial Center
Boston, Massachusetts 02111
(617) 542-6000**

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

Accelerated filer

Non-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.

CALCULATION OF REGISTRATION FEE

Title of Securities to be Registered	Amount to be Registered⁽¹⁾	Proposed Maximum Offering Price Per Share	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
Common Stock, \$0.0001 par value per share	1,250,000 shares	\$4.06 (2)	\$5,075,000.00 (2)	\$470.45

- (1) The number of shares of common stock, par value \$0.0001 per share (“Common Stock”), of Eyenovia, Inc. (the “Registrant”) stated above consists of 1,250,000 additional shares reserved for issuance under the Registrant’s Amended and Restated 2018 Omnibus Stock Incentive Plan (the “Plan”). The maximum number of shares which may be sold upon the exercise of such options or issuance of stock-based awards granted under the Plan is subject to adjustment in accordance with certain anti-dilution and other provisions of the Plan. Accordingly, pursuant to Rule 416 under the Securities Act of 1933, as amended (the “Securities Act”), this Registration Statement covers, in addition to the number of shares stated above, an indeterminate number of shares which may be subject to grant or otherwise issuable after the operation of any such anti-dilution and other provisions.
- (2) Estimated solely for the purpose of calculating the amount of the registration fee pursuant to Rule 457(c) and Rule 457(h) promulgated under the Securities Act. The offering price per share and the aggregate offering price for shares reserved for future grant or issuance under the Plan are based on the average of the high and the low price of the Registrant’s Common Stock as reported on The Nasdaq Capital Market as of a date (November 9, 2021) within five business days prior to filing this Registration Statement.
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EXPLANATORY NOTE

This Registration Statement is being filed to register an additional 1,250,000 shares of the Registrant's Common Stock reserved for issuance under the Plan. This Registration Statement registers additional securities of the same class for which a registration statement filed on Form S-8 relating to the Plan is effective. The information contained in the Registrant's registration statements on Form S-8 filed with the Securities and Exchange Commission (the "Commission") on [August 27, 2018 \(File No. 333-227049\)](#), [August 14, 2019 \(File No. 333-233280\)](#) and [August 14, 2020 \(File No. 333-246288\)](#) is hereby incorporated by reference pursuant to General Instruction E of Form S-8.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The following documents previously filed by the Registrant with the Commission are incorporated herein by reference:

(a) The Registrant's Annual Report on Form 10-K for the fiscal year ended December 31, 2020, filed with the Commission on [March 30, 2021](#);

(b) The Registrant's Quarterly Reports on Form 10-Q filed with the Commission on [May 14, 2021](#), [August 12, 2021](#), and [November 12, 2021](#);

(c) The Registrant's Current Reports on Form 8-K filed with the Commission on [February 3, 2021](#), [March 2, 2021](#), [March 15, 2021](#), [April 1, 2021](#), [May 5, 2021](#), [May 10, 2021](#), [May 14, 2021](#), [May 25, 2021](#), [June 15, 2021](#), [June 16, 2021](#), [June 21, 2021](#), [August 11, 2021](#), [September 15, 2021](#), [October 25, 2021](#), [November 5, 2021](#), and [November 10, 2021](#); and

(d) The description of the Registrant's securities contained in the Registrant's Registration Statement on Form 8-A (File No. 333-222162), filed with the Commission on [January 24, 2018](#), including any amendments or reports filed for the purpose of updating such description.

All reports and other documents filed, but not furnished, by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934, as amended, after the date hereof and prior to the filing of a post-effective amendment that indicates that all securities offered under this Registration Statement have been sold or which deregisters all securities then remaining unsold shall be deemed to be incorporated by reference herein and to be a part hereof from the date of filing of such reports and documents. In no event, however, will any of the information, including exhibits, that the Registrant discloses under Item 2.02 or Item 7.01 of any report on Form 8-K that has been or may be, from time to time, furnished to the Commission, be incorporated by reference into or otherwise become a part 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 for the purposes of this Registration Statement 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 statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

Item 5. Interests of Named Experts and Counsel.

None.

Item 8. Exhibits.

The following exhibits are filed as part of this Registration Statement:

<u>Exhibit No.</u>	<u>Description</u>
<u>4.1</u>	<u>Third Amended and Restated Certificate of Incorporation (incorporated by reference to Exhibit 3.1 of Registrant's Form 8-K filed with the Commission on January 29, 2018).</u>
<u>4.2</u>	<u>Certificate of Amendment of Third Amended and Restated Certificate of Incorporation (incorporated by reference to Exhibit 3.1.1 of Registrant's Form 8-K filed with the Commission on June 14, 2018)</u>
<u>4.3</u>	<u>Amended and Restated Bylaws (incorporated by reference to Exhibit 3.1 of Registrant's Form 8-K filed with the Commission on June 14, 2018).</u>
<u>5.1*</u>	<u>Opinion of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.</u>
<u>23.1*</u>	<u>Consent of Marcum LLP, Independent Registered Public Accounting Firm.</u>
<u>23.2*</u>	<u>Consent of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. (included in Exhibit 5.1).</u>
<u>24.1*</u>	<u>Power of Attorney (included on the signature page to this Registration Statement).</u>
<u>99.1</u>	<u>Eyenovia, Inc. Amended and Restated 2018 Omnibus Stock Incentive Plan, as amended (incorporated by reference to Exhibit 10.3 of Registrant's Form 10-Q filed with the Commission on August 12, 2021).</u>

* Filed herewith.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, 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 New York, State of New York, on the 12th day of November, 2021.

EYENOVIA, INC.

By: /s/ Tsoncho Ianchulev

Tsoncho Ianchulev

Chief Executive Officer

POWER OF ATTORNEY

Each person whose signature appears below constitutes and appoints Tsoncho Ianchulev and John Gandolfo, and each of them singly (with full power to each of them to act alone), as his true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution, for him and in 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 attorney-in-fact and agent full power and authority to do and perform each and every act and thing requisite or necessary to be done in and about the premises, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorney-in-fact and agent, or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, 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/ Tsoncho Ianchulev</u> Tsoncho Ianchulev	Chief Executive Officer (principal executive officer) and Director	November 12, 2021
<u>/s/ John Gandolfo</u> John Gandolfo	Chief Financial Officer (principal financial officer and principal accounting officer)	November 12, 2021
<u>/s/ Fredric N. Eshelman</u> Fredric N. Eshelman	Chairman of the Board of Directors	November 12, 2021
<u>/s/ Curt H. LaBelle</u> Curt H. LaBelle	Director	November 12, 2021
<u>/s/ Kenneth B. Lee, Jr.</u> Kenneth B. Lee, Jr.	Director	November 12, 2021
<u>/s/ Ernest Mario</u> Ernest Mario	Director	November 12, 2021
<u>/s/ Charles E. Mather IV</u> Charles E. Mather IV	Director	November 12, 2021
<u>/s/ Anthony Y. Sun</u> Anthony Y. Sun	Director	November 12, 2021
<u>/s/ Julia Haller</u> Julia Haller	Director	November 12, 2021



November 12, 2021

Eyenovia, Inc.
295 Madison Avenue, Suite 2400
New York, NY 10017

Ladies and Gentlemen:

We have acted as legal counsel to Eyenovia, Inc., a Delaware corporation (the “Company”), in connection with the preparation and filing with the Securities and Exchange Commission (the “Commission”) of a Registration Statement on Form S-8 (the “Registration Statement”), pursuant to which the Company is registering the issuance under the Securities Act of 1933, as amended (the “Securities Act”), of an aggregate of 1,250,000 shares (the “Shares”) of the Company’s common stock, \$0.0001 par value per share (the “Common Stock”) that may be issued pursuant to the Company’s Amended and Restated 2018 Omnibus Stock Incentive Plan (the “Plan”). This opinion is being rendered in connection with the filing of the Registration Statement with the Commission. All capitalized terms used herein and not otherwise defined shall have the respective meanings given to them in the Registration Statement.

In connection with this opinion, we have examined the Company’s Third Amended and Restated Certificate of Incorporation, as amended, and Amended and Restated Bylaws, each as currently in effect; such other records of the corporate proceedings of the Company and certificates of the Company’s officers as we have deemed relevant; and the Registration Statement and the exhibits thereto.

In our examination, we have assumed the genuineness of all signatures, the legal capacity of natural persons, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as copies, the authenticity of the originals of such copies, and the truth and correctness of any representations and warranties contained therein. In addition, we have assumed that the Company will receive any required consideration in accordance with the terms of the Plan.

Our opinion expressed herein is limited to the General Corporation Law of the State of Delaware and we express no opinion with respect to the laws of any other jurisdiction. No opinion is expressed herein with respect to the qualification of the Shares under the securities or blue sky laws of any state or any foreign jurisdiction.

Please note that we are opining only as to the matters expressly set forth herein, and no opinion should be inferred as to any other matters. This opinion is based upon currently existing statutes, rules, regulations and judicial decisions, and we disclaim any obligation to advise you of any change in any of these sources of law or subsequent legal or factual developments which might affect any matters or opinions set forth herein.

Based upon the foregoing, we are of the opinion that the Shares, when issued and delivered in accordance with the terms of the Plan, will be validly issued, fully paid and non-assessable.

BOSTON LONDON LOS ANGELES NEW YORK SAN DIEGO SAN FRANCISCO WASHINGTON
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C.



We understand that you wish to file this opinion with the Commission as an exhibit to the Registration Statement in accordance with the requirements of Item 601(b)(5) of Regulation S-K promulgated under the Securities Act, and we hereby consent thereto. In giving this consent, we do not admit that we are within the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission promulgated thereunder.

Very truly yours,

/s/ Mintz, Levin, Cohn, Ferris,
Glovsky and Popeo, P.C.

Mintz, Levin, Cohn, Ferris,
Glovsky and Popeo, P.C.

INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM'S CONSENT

We consent to the incorporation by reference in this Registration Statement of Eyenovia, Inc. on Form S-8 of our report dated March 30, 2021, which includes an explanatory paragraph as to the Company's ability to continue as a going concern, with respect to our audits of the financial statements of Eyenovia, Inc. as of December 31, 2020 and 2019 and for each of the two years in the period ended December 31, 2020 appearing in the Annual Report on Form 10-K of Eyenovia, Inc. for the year ended December 31, 2020.

/s/ Marcum LLP

Marcum LLP
New York, New York
November 12, 2021
