
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549**

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



CARDLYTICS, INC.

(Exact Name of Registrant as Specified in its Charter)

**675 Ponce de Leon Avenue NE, Suite 6000
Atlanta, Georgia 30308**
(Address of principal executive offices) (Zip code)

26-3039436
(I.R.S. Employer
Identification No.)

Delaware
(State or other jurisdiction of
incorporation or organization)

2022 Inducement Plan
(Full title of the plan)

**Lynne Laube
Cardlytics, Inc.**

**675 Ponce de Leon Avenue NE, Suite 6000
Atlanta, Georgia 30308**
(Name and address of agent for service)

(888) 798-5802
(Telephone number, including area code, of agent for service)

Copies to:

**Mark Ballantyne
Eric Jensen
Cooley LLP
1195 Freedom Drive
Reston, VA 20190-5640
(703) 456-8000**

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	<input checked="" type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>
		Emerging growth company	<input type="checkbox"/>

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

PART I

ITEM 1. PLAN INFORMATION

Not required to be filed with this Registration Statement

ITEM 2. REGISTRANT INFORMATION AND EMPLOYEE PLAN ANNUAL INFORMATION

Not required to be filed with this Registration Statement

PART II

ITEM 3. INCORPORATION OF DOCUMENTS BY REFERENCE

The following documents, which have previously been filed by Cardlytics, Inc. (the “Corporation”) with the Securities and Exchange Commission (the “SEC”), are incorporated by reference herein and shall be deemed to be a part hereof:

- the Corporation’s Annual Report on [Form 10-K](#) for the year ended December 31, 2021, filed with the SEC on March 1, 2022, as amended by the [Form 10-K/A](#) filed with the SEC on May 2, 2022;
- the Corporation’s Quarterly Report on [Form 10-Q](#) for the quarter ended March 31, 2022, filed with the SEC on May 2, 2022;
- the Corporation’s Quarterly Report on [Form 10-Q](#) for the quarter ended June 30, 2022, filed with the SEC on August 2, 2022;
- the information specifically incorporated by reference into the 2021 Form 10-K from the Corporation’s definitive proxy statement on [Schedule 14A](#), filed with the SEC on April 11, 2022;
- the Corporation’s Current Reports on Form 8-K filed with the SEC on [March 18, 2022](#), [May 24, 2022](#), [June 21, 2022](#), [July 12, 2022](#), [July 20, 2022](#) (except for the information furnished under Item 2.02 therein) and [July 21, 2022](#); and
- the description of the Corporation’s common stock set forth in the Corporation’s registration statement on [Form 8-A](#) filed with the SEC on February 6, 2018.

The Corporation also incorporates by reference any future filings (other than current reports furnished under Item 2.02 or Item 7.01 of Form 8-K and exhibits filed on such form that are related to such items unless such Form 8-K expressly provides to the contrary) made with the SEC pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act. Information in such future filings updates and supplements the information provided in this prospectus supplement and the accompanying prospectus. Any statements in any such future filings will automatically be deemed to modify and supersede any information in any document the Corporation previously filed with the SEC that is incorporated or deemed to be incorporated herein by reference to the extent that statements in the later filed document modify or replace such earlier statements.

ITEM 4. DESCRIPTION OF SECURITIES

Not applicable

ITEM 5. INTEREST OF NAMED EXPERTS AND COUNSEL

None.

ITEM 6. INDEMNIFICATION OF DIRECTORS AND OFFICERS

We are incorporated under the laws of the State of Delaware. Section 102 of the Delaware General Corporation Law permits a corporation to eliminate the personal liability of directors of a corporation to the corporation or its stockholders for monetary damages for a breach of fiduciary duty as a director, except where the director breached his or her duty of loyalty, failed to act in good faith, engaged in intentional misconduct or knowingly violated a law, authorized the payment of a dividend or approved a stock repurchase in violation of Delaware corporate law or obtained an improper personal benefit.

Section 145 of the Delaware General Corporation Law provides that a corporation has the power to indemnify a director, officer, employee or agent of the corporation and certain other persons serving at the request of the corporation in related capacities against expenses (including attorneys’ fees), judgments, fines and amounts paid in settlements actually and reasonably incurred by the person in connection with an action, suit or proceeding to which he or she is or is threatened to be made a party by reason of such position, if such person acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the corporation, and, in any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful, except that, in the case of actions brought by or in the right of the corporation, no indemnification shall be made with respect to any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation unless and only to the extent that the Court of Chancery or other adjudicating court determines that, despite the adjudication of liability but in view of all of the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

As permitted by the Delaware General Corporation Law, our amended and restated certificate of incorporation and amended and restated bylaws provide that: (1) we are required to indemnify our directors to the fullest extent permitted by the Delaware General Corporation Law; (2) we may, in our discretion, indemnify our officers, employees and agents as set forth in the Delaware General Corporation Law; (3) we are required, upon satisfaction of certain conditions, to advance all expenses incurred by our directors in connection with certain legal proceedings; (4) the rights conferred in the bylaws are not exclusive; and (5) we are authorized to enter into indemnification agreements with our directors, officers, employees and agents.

Our policy is to enter into agreements with our directors that require us to indemnify them against expenses, judgments, fines, settlements and other amounts that any such person becomes legally obligated to pay (including with respect to a derivative action) in connection with any proceeding, whether actual or threatened, to which such person may be made a party by reason of the fact that such person is or was a director or officer of us or any of our affiliates, provided such person acted in good faith and in a manner such person reasonably believed to be in, or not opposed to, our best interests. These indemnification agreements also set forth certain procedures that will apply in the event of a claim for indemnification thereunder. At present, no litigation or proceeding is pending that involves any of our directors or officers regarding which indemnification is sought, nor are we aware of any threatened litigation that may result in claims for indemnification.

We maintain a directors' and officers' liability insurance policy. The policy insures directors and officers against unindemnified losses arising from certain wrongful acts in their capacities as directors and officers and reimburses us for those losses for which we have lawfully indemnified the directors and officers. The policy contains various exclusions.

ITEM 7. EXEMPTIONS FROM REGISTRATION CLAIMED

Not applicable.

ITEM 8. EXHIBITS

Exhibit Number	Description
4.1 (1)	Amended and Restated Certificate of Incorporation of the Registrant
4.2 (2)	Amended and Restated Bylaws of the Registrant
4.3 (3)	2022 Inducement Plan
4.4 (4)	Form of option and grant notice and Agreement under 2022 Inducement Plan
4.5 (5)	Form of restricted stock unit grant notice and agreement under 2022 Inducement Plan
4.6 (6)	Specimen stock certificate evidencing shares of Common Stock
5.1 (7)	Opinion of Cooley LLP
23.1 (7)	Consent of Deloitte & Touche LLP, Independent Registered Public Accounting Firm
23.2 (7)	Consent of Cooley LLP (included in Exhibit 5.1)
24.1 (7)	Power of Attorney (included on the signature page of this Form S-8)
107 (7)	Filing Fee Table

- (1) Previously filed as Exhibit 3.2 to the Registrant's Registration Statement on Form S-1 (File No. 333-222531), filed with the Commission on January 12, 2018, and incorporated by reference herein.
- (2) Previously filed as Exhibit 3.4 to the Registrant's Registration Statement on Form S-1 (File No. 333-222531), filed with the Commission on January 12, 2018, and incorporated by reference herein.
- (3) Previously filed as Exhibit 10.1 to the Registrant's Current Report on Form 8-K (File No. 001-38386), filed with the Commission on July 20, 2022, and incorporated by reference herein.
- (4) Previously filed as Exhibit 10.2 to the Registrant's Current Report on Form 8-K (File No. 001-38386), filed with the Commission on July 20, 2022, and incorporated by reference herein.
- (5) Previously filed as Exhibit 10.3 to the Registrant's Current Report on Form 8-K (File No. 001-38386), filed with the Commission on July 20, 2022, and incorporated by reference herein.
- (6) Previously filed as Exhibit 4.1 to Amendment No. 1 to the Registrant's Registration Statement on Form S-1 (File No. 333-222531), filed with the Commission on January 29, 2018, and incorporated by reference herein.
- (7) Filed herewith.

ITEM 9. UNDERTAKINGS

1. The undersigned registrant hereby undertakes:
 - (a) 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;
 - 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% 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)(i) and (a)(ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the registrant pursuant to section 13 or section 15(d) of the Exchange Act that are incorporated by reference in the registration statement.
 - (b) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered herein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
 - (c) 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.
2. The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to section 15(d) of the Exchange Act) that is incorporated by reference in the Registration Statement shall be deemed to be a new registration statement relating to the securities offered herein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.
3. Insofar as indemnification for liabilities arising under the Securities Act 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 Securities 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 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 Atlanta, State of Georgia, on August 26, 2022.

CARDLYTICS, INC.

By: /s/ Lynne M. Laube

Lynne M. Laube

Chief Executive Officer

POWER OF ATTORNEY

Know All Persons By These Presents, that each person whose signature appears below constitutes and appoints Lynne M. Laube, Nick Lynton and Andrew Christiansen, and each or any one of them, his or her true and lawful attorney-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 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 or his or her 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.

Signature	Title	Date
<u>/s/ Lynne M. Laube</u> Lynne M. Laube	Chief Executive Officer and Director (Principal Executive Officer)	August 26, 2022
<u>/s/ Andrew Christiansen</u> Andrew Christiansen	Chief Financial Officer (Principal Financial and Accounting Officer)	August 26, 2022
<u>/s/ Scott D. Grimes</u> Scott D. Grimes	Executive Chairman	August 26, 2022
<u>/s/ David L. Adams</u> David L. Adams	Director	August 26, 2022
<u>/s/ John V. Balen</u> John V. Balen	Lead Independent Director	August 26, 2022
<u>/s/ Jessica Jensen</u> Jessica Jensen	Director	August 26, 2022
<u>/s/ John Klinck</u> John Klinck	Director	August 26, 2022
<u>/s/ Aimée Lopic</u> Aimée Lopic	Director	August 26, 2022
<u>/s/ Chris Suh</u> Chris Suh	Director	August 26, 2022
<u>/s/ Tony Weisman</u> Tony Weisman	Director	August 26, 2022

Filing Fee Tables

Form S-8

(Form Type)

**CARDLYTICS, INC.**

(Exact Name of Registrant as Specified in its Charter)

Table 1: Newly Registered Securities

Title of Securities to be Registered	Amount to be Registered⁽¹⁾	Proposed Maximum Offering Price Per Share	Proposed Maximum Aggregate Offering Price	Fee Rate	Amount of Registration Fee
Common Stock, par value \$0.0001 per share					
2022 Inducement Plan	1,500,000	\$15.35 ⁽²⁾	\$23,025,000	0.0000927	\$2,134.42
Total Offering Amounts	1,500,000		\$23,025,000	0.0000927	\$2,134.42
Total Fees Previously Paid					\$—
Total Fee Offset					\$—
Net Fee Due					\$2,134.42

- (1) Pursuant to Rule 416(a) promulgated under 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 that become issuable under the 2022 Inducement Plan set forth herein 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) Estimated solely for the purpose of calculating the amount of the registration fee pursuant to Rule 457(c) promulgated under the Securities Act. The proposed maximum offering price per share and the proposed maximum aggregate offering price are calculated using the average of the high and low prices of the Registrant's Common Stock as reported on the Nasdaq Global Market on August 22, 2022.



Mark Ballantyne
+1 703-456-8084
mballantyne@cooley.com

August 26, 2022

Cardlytics, Inc.
675 Ponce de Leon Avenue NE, Suite 6000
Atlanta, Georgia 30308

Ladies and Gentlemen:

You have requested our opinion, as counsel to Cardlytics, Inc., a Delaware corporation (the “**Company**”), in connection with the filing by the Company of a Registration Statement on Form S-8 (the “**Registration Statement**”) with the Securities and Exchange Commission covering the offering of up to 1,500,000 shares (the “**Shares**”) of the Company’s Common Stock, par value \$0.0001 per share (“**Common Stock**”), issuable pursuant to the Company’s 2022 Inducement Plan (the “**Inducement Plan**”).

In connection with this opinion, we have examined and relied upon (a) the Registration Statement and the related prospectus, (b) the Company’s Amended and Restated Certificate of Incorporation and the Company’s Amended and Restated Bylaws, each as currently in effect, (c) the Inducement Plan, and (d) originals or copies certified to our satisfaction of such records, documents, certificates, memoranda and other instruments as in our judgment are necessary or appropriate to enable us to render the opinion expressed below. We have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals, the conformity to originals of all documents submitted to us as copies, the accuracy, completeness and authenticity of certificates of public officials, and the due authorization, execution and delivery of all documents by all persons other than the Company where authorization, execution and delivery are prerequisites to the effectiveness of such documents. As to certain factual matters, we have relied upon a certificate of an officer of the Company and have not independently verified such matters.

Our opinion is expressed only with respect to the General Corporation Law of the State of Delaware. We express no opinion to the extent that any other laws are applicable to the subject matter hereof and express no opinion and provide no assurance as to compliance with any federal or state securities law, rule or regulation.

On the basis of the foregoing, and in reliance thereon, we are of the opinion that the Shares, when sold and issued in accordance with the Inducement Plan, the Registration Statement and the related prospectus, will be validly issued, fully paid and nonassessable (except as to shares issued pursuant to deferred payment arrangements, which will be fully paid and nonassessable when such deferred payments are made in full).

We consent to the filing of this opinion as an exhibit to the Registration Statement.

Sincerely,
Cooley LLP

By: /s/ Mark Ballantyne

Mark Ballantyne

Cooley LLP Reston Town Center Reston, VA 20190-5656
t: (703) 456 8000 f: (703) 456 8100 cooley.com

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in this Registration Statement on Form S-8 of our reports dated March 1, 2022 relating to the consolidated financial statements of Cardlytics, Inc. and subsidiaries (the “Company”) and the effectiveness of the Company's internal control over financial reporting appearing in the Annual Report on Form 10-K/A of Cardlytics, Inc. for the year ended December 31, 2021.

/s/ Robert Kerr

DELOITTE & TOUCHE LLP

Atlanta, Georgia

August 26, 2022



Mark Ballantyne
+1 703-456-8084
mballantyne@cooley.com

August 26, 2022

Cardlytics, Inc.
675 Ponce de Leon Avenue NE, Suite 6000
Atlanta, Georgia 30308

Ladies and Gentlemen:

You have requested our opinion, as counsel to Cardlytics, Inc., a Delaware corporation (the “**Company**”), in connection with the filing by the Company of a Registration Statement on Form S-8 (the “**Registration Statement**”) with the Securities and Exchange Commission covering the offering of up to 1,500,000 shares (the “**Shares**”) of the Company’s Common Stock, par value \$0.0001 per share (“**Common Stock**”), issuable pursuant to the Company’s 2022 Inducement Plan (the “**Inducement Plan**”).

In connection with this opinion, we have examined and relied upon (a) the Registration Statement and the related prospectus, (b) the Company’s Amended and Restated Certificate of Incorporation and the Company’s Amended and Restated Bylaws, each as currently in effect, (c) the Inducement Plan, and (d) originals or copies certified to our satisfaction of such records, documents, certificates, memoranda and other instruments as in our judgment are necessary or appropriate to enable us to render the opinion expressed below. We have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals, the conformity to originals of all documents submitted to us as copies, the accuracy, completeness and authenticity of certificates of public officials, and the due authorization, execution and delivery of all documents by all persons other than the Company where authorization, execution and delivery are prerequisites to the effectiveness of such documents. As to certain factual matters, we have relied upon a certificate of an officer of the Company and have not independently verified such matters.

Our opinion is expressed only with respect to the General Corporation Law of the State of Delaware. We express no opinion to the extent that any other laws are applicable to the subject matter hereof and express no opinion and provide no assurance as to compliance with any federal or state securities law, rule or regulation.

On the basis of the foregoing, and in reliance thereon, we are of the opinion that the Shares, when sold and issued in accordance with the Inducement Plan, the Registration Statement and the related prospectus, will be validly issued, fully paid and nonassessable (except as to shares issued pursuant to deferred payment arrangements, which will be fully paid and nonassessable when such deferred payments are made in full).

We consent to the filing of this opinion as an exhibit to the Registration Statement.

Sincerely,
Cooley LLP

By: /s/ Mark Ballantyne

Mark Ballantyne