

INVIVO CORP  
Form S-8  
June 28, 2002

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As filed with the Securities and Exchange Commission on June 28, 2002

Registration No. 33-

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

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

**INVIVO CORPORATION**

(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction of  
incorporation or organization)

**77-0115161**  
(I.R.S. Employer  
Identification No.)

**4900 Hopyard Road, #210 Pleasanton, California 94588**  
(Address of principal executive offices)

**1994 Stock Option Plan**  
(Full title of the plan)

**John F. Glenn,**  
**Vice President, Finance**  
**Invivo Corporation**  
**4900 Hopyard Road, #210**  
**Pleasanton, California 94588**  
**(925) 468-7600**

(Name and address, including zip code, and  
telephone number, including area code, of agent for service)

Copies to:  
Daniel J. Winnike, Esq.  
Fenwick & West LLP  
Two Palo Alto Square  
Palo Alto, California 94306

**CALCULATION OF REGISTRATION FEE**

<b>Title of Shares</b>	<b>Amount</b>	<b>Proposed Maximum Offering</b>	<b>Proposed Maximum Aggregate</b>	<b>Amount of Registration Fee</b>
<b>To Be Registered</b>	<b>To Be Registered</b>	<b>Price Per Share</b>	<b>Offering Price</b>	
Common Stock, par value \$0.01 per share	220,000	\$ (1)	\$ (1)	\$288.42

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- (1) Estimated solely for the purpose of computing the registration fee pursuant to Rule 457, on the basis of the last sale reported the average of the high and low price of the Registrant's Common Stock as reported on the Nasdaq National Market on June 26, 2002.
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Exhibit 4.1

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Exhibit 23.1

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**STATEMENT PURSUANT TO GENERAL INSTRUCTION E**

**Incorporation by Reference of Previous Registration Statement**

Pursuant to General Instruction E of Form S-8, the Registrant is filing this Registration Statement with the Securities and Exchange Commission (the Commission) to register an additional 220,000 shares under the Registrant's 1994 Stock Option Plan. Pursuant to General Instruction E, the contents of the Registrant's Registration Statement on Form S-8 (File No. 33-88798) are hereby incorporated by reference into this Registration Statement.

**PART II:  
INFORMATION REQUIRED IN THE REGISTRATION STATEMENT**

**Item 3. Incorporation of Documents by Reference.**

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

- (a) the Issuer's Annual Report on Form 10-K for the fiscal year ended June 30, 2001;
- (b) the Issuer's Quarterly Reports on Form 10-Q for the quarters ended September 30, 2001, December 31, 2001 and March 31, 2002; and
- (c) the description of the Issuer's Common Stock contained in the Company's Registration Statement on Form 8-A dated June 15, 1987, File No. 0-15963.

All documents subsequently filed by the Issuer pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934, as amended, prior to the filing of a post-effective amendment which indicates that all securities registered hereby 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 the filing of such documents.

**Item 8. Exhibits.**

Exhibit Number	Description of Document
4.1	1994 Stock Option Plan
4.2	Form of Incentive Stock Option Agreement (incorporated by reference to Exhibit 4.2 to the Registrant's Registration Statement on Form S-8, Registration Statement No. 33-88798)
4.3	Form of Non-Qualified Stock Option Agreement (incorporated by reference to Exhibit 4.3 to

the Registrant's  
Registration  
Statement on  
Form S-8,  
Registration  
Statement  
No. 33-88798) 5.1  
Opinion of  
Fenwick &  
West LLP23.1  
Consent of  
KPMG  
LLP23.2  
Consent of  
Fenwick &  
West LLP  
(included in  
Exhibit 5.1)

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**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 Pleasanton, State of California, on June 28, 2002.

INVIVO CORPORATION

By: /s/ James B. Hawkins

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 James B. Hawkins  
 President

**POWER OF ATTORNEY**

KNOW ALL PERSONS BY THESE PRESENTS that each individual whose signature appears below constitutes and appoints James B. Hawkins and John F. Glenn, and each of them, his true and lawful attorneys-in-fact and agents with full power of substitution, for him and in his name, place and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this Registration Statement on Form S-8, and to file the same with all exhibits thereto and all 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 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 attorneys-in-fact and agents or any of them, or his or their 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 date indicated.

<b>Signature</b>	<b>Title</b>	<b>Date</b>
<u>/s/ James B. Hawkins</u> James B. Hawkins	President, Chief Executive Officer and Director (principal executive officer)	June 28, 2002
<u>/s/ John F. Glenn</u> John F. Glenn	Vice President, Finance and Chief Financial Officer (principal financial officer and principal accounting officer)	June 28, 2002
<u>/s/ Earnest C. Goggio</u> Earnest C. Goggio	Chairman of the Board	June 28, 2002
<u>/s/ George S. Sarlo</u> George S. Sarlo	Director	June 28, 2002
<u>/s/ Lareen Debuono</u> Lareen Debuono	Director	June 28, 2002

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**EXHIBIT LIST**

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Opinion of Fenwick & West	
LLP23.1	
Consent of KPMG	
LLP23.2	
Consent of Fenwick & West LLP (included in Exhibit 5.1)	
24.1	
Power of Attorney (see page 3)	